

THE
PRINCIPLES
OF
MORAL AND POLITICAL PHILOSOPHY
INVESTIGATED.



THE
PRINCIPLES
OF
MORAL PHILOSOPHY
INVESTIGATED,
AND BRIEFLY APPLIED TO THE CONSTITUTION
OF CIVIL SOCIETY :

TOGETHER WITH
REMARKS ON THE PRINCIPLE ASSUMED BY MR. PALEY AS
THE BASIS OF ALL MORAL CONCLUSIONS,
AND ON OTHER POSITIONS OF THE SAME AUTHOR.

By THOMAS GISBORNE, M. A.

THE THIRD EDITION, CORRECTED AND ENLARGED.

To which is added, a New Edition, with an APPENDIX,
OF
REMARKS
ON THE
LATE DECISION OF THE HOUSE OF COMMONS
RESPECTING
THE ABOLITION OF THE SLAVE TRADE.

LONDON:
PRINTED FOR B. AND J. WHITE, FLEET-STREET.
M, DCC, XCV.



TO THE
M E M B E R S
OF THE
UNIVERSITY OF CAMBRIDGE,
THE
FOLLOWING TREATISE
IS RESPECTFULLY DEDICATED.

TO THE
MEMBERS
OF THE
UNIVERSITY OF CAMBRIDGE
FOLLOWING TRATISE
IS RESPECTFULLY DEDICATED



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P R E F A C E.

THE subsequent Treatise was occasioned by an appointment, which I understood to have taken place in the University of Cambridge, that candidates for the degree of Bachelor of Arts shall be examined in the "Elements of Moral and Political Philosophy."

No one can rejoice more sincerely than myself at every academical regulation, which promotes the study of morality; a study of universal importance, and deserving of the

utmost encouragement in a seminary particularly designed to complete the education of Christian ministers. Nor can any one be more fully convinced of the purity of the motives which gave rise to the appointment which I have mentioned, or more willing to bear ample testimony to the excellence of various parts of Mr. Paley's work. Yet I am also persuaded that the principle assumed by Mr. Paley, as the criterion of moral duty, is open to fundamental objections of the utmost magnitude; and that many of his conclusions are not such as just reasoning would establish. As I shall hereafter have occasion to speak of some general causes likely to facilitate the reception of any erroneous opinions maintained in the work in question, I shall at present only observe, that those opinions must operate with particular force, when apparently sanctioned by the approbation of one of our Universities; and with consequences particularly to be lamented, when instilled into persons of that age, in which the mind is easily impressed,

impressed, and liable to acquire a lasting partiality for the principles which it imbibes.

It is not my intention to hold up to public notice every error into which I may imagine Mr. Paley to have fallen, nor to construct a complete system of morality. The former purpose would be uncandid, the latter presumptuous. After preparing my way by an examination of Mr. Paley's fundamental position, I shall endeavour to establish principles less exceptionable; and shall briefly apply them to the constitution of civil society. I shall also make incidental remarks on such of Mr. Paley's conclusions as fall within my immediate plan, when they appear to me to be inaccurate, and at the same time to bear on topics of importance. I am willing to believe that in the controversial remarks interspersed through the subsequent Treatise, I shall not forget what is due to the very respectable author who is the subject of them; and to hope that
the

the same considerations, which have led me to investigate the errors of others, will teach me to acknowledge with gratitude the detection of my own.

In prefixing my name to this publication, I am far from being actuated by a wish to be personally known as an antagonist of Mr. Paley. The fact is, that a considerable portion of the following pages was written before I had the most distant idea of avowing them. Reflection, however, and the opinion of others, convinced me that it would be in vain to expect a short and anonymous performance to attract such a share of public attention, as to have a chance of counteracting in any degree the acknowledged sentiments of Mr. Paley; and that, by pursuing my original plan, I should at once ensure to this Treatise that total neglect and oblivion, to which a book authenticated by the signature of any individual is not usually consigned, until a fair trial

has been granted, and the sentence has been found to be deserved.

I cannot close this Preface without performing an act of Justice, and expressing how materially I have been indebted in many of the subsequent discussions to the important observations suggested by my excellent friend, Mr. Babington, of Rothley Temple.

YOXALL LODGE,
March 27, 1789.



I cannot close the British Museum without
turning an eye, and expressing how
interestedly we are watching the progress
of the work, and the importance of the
observations made by the excellent
Mr. Babinston, of the British Museum.

Yours faithfully,
[Signature]

[Faint, illegible text continues in several paragraphs]

1886

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PART I.
EXAMINATION OF MR. PALEY'S FUNDAMENTAL PRINCIPLE OF MORALITY.

CHAP. I.

INTRODUCTORY REMARKS ON THE "ELEMENTS OF
"MORAL AND POLITICAL PHILOSOPHY."

HE who offers his opinions to the world ought to be impelled by such motives as will vindicate him, to the satisfaction of candid minds, from the charge of unnecessary obtrusion. I have already noticed, in my preface, the general grounds on which I venture to solicit attention to my sentiments on subjects of morality. Those grounds it may now be proper more fully to explain.

Mr. Paley has obtained, and has in many respects deserved, a very large share of public
B favour.

favour. The selection of the most important topics for the exercise of his abilities; the sedulous industry with which he has prosecuted his researches; the spirit of benevolence and piety which pervades and animates his writings; these are merits which entitle him to the distinguished regard of every friend of natural and revealed religion. Where shall we discover sounder or more pointed arguments than those by which many of his positions are enforced? Where shall we look for models of elucidation more apposite than the examples by which many of his arguments are illustrated? Where is the work, in which the intricacies of abstruse speculation are more studiously accommodated to practical utility; and moral conclusions more happily applied to the incidents of common life? Yet if into a work, recommended by so many and so powerful considerations, fundamental errors have been admitted; if momentous conclusions rest on principles either false in themselves, or improperly applied, or insufficient to support all the inferences deduced from them; the probable effects on the moral conduct of men cannot fail to be in a high degree extensive and pernicious. Every circumstance which,



which, on the perusal of one chapter, spreads a glow of approbation over the mind of the reader, contributes to prevent him from suspecting or discovering the mistakes in the next. Embracing, partly from the conviction of his reason, partly from his preconceived opinions of right and wrong, the conclusions presented to him, he no longer doubts, if he had doubted before, the truth of the propositions from which they are derived. Struck with the apparent purity of the stream, he forgets to examine the salubrity of the fountain from which it springs, and of the channels through which it is conveyed.

The style and arrangement adopted by former moralists, far from captivating the attention of the student, have too often taught him to consider ethical investigations as unalluring and distasteful. He found himself perplexed with intricate details pursued through innumerable subdivisions; and frequently disgusted with the uninteresting conclusion obtained by so laborious a process. In compliance with the prejudices, the indolence, and in many respects with the reasonable expectations of mankind, later writers have de-

viated from the track of their predecessors; they have abandoned dry and unprofitable speculations; they have mitigated the rigour of scientific method by the elegance of flowing language; and enlivened the barrenness of strict demonstration by the graces of modest ornament. The intention was dictated by wisdom, and has been executed with ability. The labours of Mr. Paley, and of others who have adopted a similar plan, have obtained the applause, and have influenced the conduct, of numbers, who turned from former treatises on moral subjects with contempt and aversion.

While I contemplate with pleasure this more general diffusion of knowledge of the most important kind, may I not be permitted to remark that some of the causes, which have ensured to Mr. Paley's work such extensive popularity, would naturally lead the world to overlook the defects inherent in any principle, assumed by him as the ground-work of moral and political philosophy? And may I not add, that the principle which he has adopted is peculiarly calculated to captivate the generality of readers; while at the same time
many

many of his ^a observations and conclusions are such as tend to quiet the alarms of the rigid moralist?

The doctrine of general expediency, which affirms that utility is the sole measure of the rectitude or depravity of every action, and at the same time constitutes the agent the sole judge ^b of that utility, will cheerfully be embraced by those whose indolence desires a rule of conduct easy to be retained, and of universal application; by those whose vague opinions and ill-governed passions are averse to absolute and immutable restraints; and by those whose mistaken liberality of sentiment suggests that a moral agent should in every case be permitted to determine for himself,

^a See Mr. Paley's remarks on general rules, and on perfect rights.

^b "It is not meant that any other person than the agent ought on Mr. Paley's principles, or on any principles, to have been constituted judge of the utility; but simply to state that Mr. Paley's rule is in that respect much more attractive than it would have been, had it pronounced that any others were to judge for the agent, or that the scriptures had in certain cases taken from him all latitude of discretion."

unfettered by any dictates of revelation, what actions will promote on the whole his happiness or misery. Other causes, unconnected with these prejudices and errors, will concur in producing the same effect. The seeming piety of the idea, that the rule to which the conduct of the Almighty is conformable should be the standard of human actions, will dazzle well-disposed minds. Persons of an opposite description, who may find it convenient to affect a sense of virtue, will gladly profess a principle which authorises them to depart at their own discretion from the most positive rules of morality; teaches them that *every* unbending precept, however generally received, is founded on false and contracted views of things; and thus affords them a plausible and never-failing defence for any measures which they choose to adopt.

Such is the alluring nature of Mr. Paley's general rule; and many of the inferences derived from it will accord with the reader's preconceived notions of morality. In the chapters to which I have already referred (not to particularize others) he is presented with conclusions bearing evident marks of
truth

truth and justice ; and if he does not pause to consider how far they are consistent with the principle from which they are said to flow, and how far they are compatible with other parts of Mr. Paley's work, he will be persuaded that the duties which he has been used to regard as of absolute obligation continue sacred and indispensable under the rule of general expediency.

I apprehend, however, that the principle of expediency is not supported in Mr. Paley's work by any proof which will stand the test of close examination ; that it is liable, in the hands of man, to such misapplication and perversion, that its general reception would apparently be most unfavourable to human happiness ; that it is totally incompatible with the precepts of scripture ; and that it never could be designed, nor can possibly be adopted, for the regulation of human conduct. In the following pages I shall endeavour to establish the validity of these assertions ; and, in the place of general expediency, to substitute and apply other principles, founded on reason, confirmed by revelation, and consequently not exposed to similar objections.

They, who are deeply convinced of the pernicious and indefinite effects of error, who are alarmed at the train of evils which would ensue if men were guided in their most important concerns by a principle destitute of foundation, will not deem it uninteresting to examine the validity of a doctrine, likely, from its own nature, to be so generally embraced; and, from the mode of applying it, to be so little questioned. I am aware of the disadvantageous terms on which a writer, unknown to the public, combats authority so powerful as that of Mr. Paley. Yet, whatever be the deference paid to names by the generality of mankind, an inquiry into subjects confessedly of the highest moment, we may hope, in this age and country, will be received with candid attention, not only without the concurrence of adventitious aid, but even in opposition to it. It cannot, at least, be apprehended that in our universities, consecrated to the investigation of truth, a prejudice, universally giving way, should fix its latest residence. “ We ^c appear astonished “ when we see the multitude led away by

^c See Mr. Paley's preface.

“ founds ; but we should remember that, if
 “ founds work miracles, it is always upon
 “ ignorance. The influence of names is in
 “ exact proportion to the want of know-
 “ ledge.”

CHAP. II.

STATEMENT, PROOF, AND APPLICATION OF THE PRINCIPLE OF GENERAL EXPEDIENCY ACCORDING TO MR. PALEY.

It will be proper to lay before the reader a brief statement of Mr. Paley's fundamental propositions before I enter into an examination of their truth; and I shall leave them to make their full impression on his mind, reserving my objections to be unfolded in subsequent chapters.

After having shewn that those rules of life by which men are ordinarily governed, namely the law of honour, the law of the land, and the scriptures, do not supersede the study of ethics; the first being founded on caprice sometimes absurd, and frequently vicious; the second professedly omitting many duties, and tolerating many crimes; and the third not containing a specific determination of the many particular cases which continually occur; Mr. Paley directs his inquiries to the consideration
of

of the moral sense. And, having ^a proved that its existence is problematical ; that its dictates, admitting its existence, cannot now be distinguished from prejudices and habits ; and that at any rate they can derive substantial weight only from resorting to ulterior sanctions ; he asserts that resort may be had to these sanctions by a surer rule, and proceeds to develop the nature and the source of moral obligation. He states that ^b all obligation consists in being urged by a violent motive resulting from the command of another ; and that moral obligation ^c implies the being impelled to perform certain actions, and to abstain from others, by the expectation of future rewards and punishments, resulting from the appointment of God. Hence he infers, that “ to ^d inquire what is our “ duty, or what we are obliged to do, in any

^a Though I have concurred in the general conclusions established in Mr. Paley's chapter on the moral sense, I must not be understood to acquiesce in every thing which that chapter contains. The observation that “ perhaps no “ maxims in morality can be assigned which are universally “ true, and do not bend to circumstances,” will be the subject of future disquisition.

^b Page 57, Vol. I. Ed. 6th. 8vo. To this edition all subsequent references are made.

^c Page 59, Vol. I.

^d Page 62, Vol. I.

“ instance,

“ instance, is, in effect, to inquire what is the
“ will of God in that instance.”

The truth of the Christian religion having been pre-supposed, Mr. Paley then observes that “ there are two methods of coming at the
“ will of God on any point.

“ First, By his express declarations, when
“ they are to be had; and which must
“ be sought for in scripture.”

“ Secondly, By what we can discover of his
“ designs and disposition from his works;
“ or, as we usually call it, the light of
“ Nature.”

On the presumption of the divine benevolence, a presumption which Mr. Paley afterwards confirms from a consideration of the constitution of nature, and which might with much propriety have been shewn to be a fundamental principle of Christianity, he concludes that “ the method of coming at the will of
“ God concerning any action, by the light of

“ nature, is to inquire into the tendency of
 “ that action to promote or diminish the ge-
 “ neral happiness.”

Whatever ^f is expedient he affirms to be right. But, in consequence of having shewn ^g the necessity of all moral government being administered according to general rules, he subjoins, “ It ^h must be expedient, upon the
 “ whole, at the long run ; in all its effects
 “ collateral and remote, as well as in those
 “ which are immediate and direct ; as it is
 “ obvious that, in computing consequences, it
 “ makes no difference in what way, or at
 “ what distance, they ensue.”

Mr. Paley, having once established to his own satisfaction the principle of general expediency, in the manner which I have stated, applies it as the sole standard, not of those moral duties only concerning which the scriptures do not furnish him with sufficient information, but of all moral duties universally, of whatever nature, and however ascertained.

^f Page 70, Vol. I.

^g Page 74, Vol. I.

^h Page 78, Vol. I.

“ The *criterion*ⁱ of right is utility.” *What*^z
 “ *ever*^k is expedient is right. It is the *utility*
 “ of *any* moral rule *alone* which constitutes the
 “ obligation of it.” And shortly afterwards
 Mr. Paley, describing himself as called upon
 to prove assassination, robbery, and perjury
 unlawful, instead of making, or leaving room
 for, a decisive appeal to scripture on the sub-
 ject, replies, “ These^l actions are not useful ;
 “ and for that reason, *and that alone*, are not
 “ right.” He further declares that *every* mo-
 ral rule is liable to be superseded in particular
 cases on the ground of expediency. “ Moral
 “ philosophy^m cannot pronounce that any
 “ rule of morality is so rigid as to bend to no
 “ exceptions ; nor, on the other hand, can
 “ she comprise these exceptions within any
 “ previous description. She confesses that
 “ the obligation of every law depends upon
 “ its ultimate utility ; that, this utility hav-
 “ ing a finite and determinate value, situ-
 “ ations may be feigned, and consequently
 “ may possibly arise, in which the general
 “ tendency is outweighed by the enormity

ⁱ Page 71, Vol. I.

^l Page 72, Vol. I.

^k Page 70, Vol. I.

^m Page 411, Vol. II.

“ of the particular mischief;” and of course when ultimate utility, and consequently the will of God, render it as much an act of duty to break the rule, as it is on other occasions to observe it.

But who shall judge of the expediency? “ Every ⁿ man,” he replies, “ for himself.” And is there not great danger of a man’s estimating amiss the expediency in a vast variety of cases; and thence acting in a manner directly repugnant to the line of conduct which he ought to have pursued? Mr. Paley, anticipating this objection, endeavours to provide against it, and ventures a bold assertion that every other system of morality is not less exposed, is perhaps more exposed, than that which he patronises, both to casual and to wilful misapplication. “ The ^o danger of error
“ and abuse is no objection to the rule of expediency, because every other rule is liable
“ to the same or greater; and every rule that
“ can be propounded upon the subject (like
“ all rules, which appeal to or bind the conscience) must in the application depend upon
“ private judgement.”

ⁿ P. 142, Vol. II.

^o P. 143, Vol. II.

This paragraph, in which the argument is couched in general terms, equally applicable to every case of expediency, contains the language and determination of Mr. Paley in applying his theory to the duty of civil submission or resistance: and it contains what must be his language and determination respecting every other moral duty, as he founds all on the same principle.

The result of the statement contained in this chapter is, that, according to Mr. Paley's principle, a man is bound to the observance of each moral rule, as long as he thinks such observance generally expedient; that he is permitted, and even obliged in conscience, to disregard any rule, whenever in his opinion the violation of it will be attended on the whole with beneficial consequences; and that with respect to *every* moral rule cases may occur, in which expediency will *actually* require the violation to take place.

CHAP. III.

REFUTATION OF MR. PALEY'S PROOF OF HIS FUNDAMENTAL PRINCIPLE.

OUR first inquiry will naturally be whether the argument, by which Mr. Paley professes to prove the truth of the system stated in the preceding chapter, be found in all its parts. Should we find it to be so, all further discussion will be precluded.

Mr. Paley, after having shewn that the duty of man consists in obeying the will of God, reasons in the following manner: "God Almighty wills and wishes the happiness of his creatures; and consequently those actions which promote that will and wish must be agreeable to him; and the contrary." He infers as a necessary conclusion from these premises, that "the method of coming at the will of God concerning any action by the light of nature is, to inquire into the tendency of that

^a Paley, P. 65, Vol. I.

^b P. 65 and 70, Vol. I.

“action to promote or diminish the general
“happiness.”

The first step of Mr. Paley's reasoning, that “God wills and wishes the happiness of
“his creatures,” if understood in the full latitude of the terms, demands our unconditional assent. We know that the divine Author of the universe is a being of unbounded benevolence. We know that a desire of promoting happiness, or in other words general expediency, extending to *all* created beings, is an unchangeable motive of his conduct.

The consequence deduced from the foregoing fact by Mr. Paley, that “those actions
“which promote that happiness must be
“agreeable to him, and the contrary,” is also strictly true, if Mr. Paley be supposed to speak of actions in the abstract without any reference to the motives of the agent. The Almighty approves or disapproves of actions viewed in this light, accordingly as they further or impede his plan of universal good.

Mr.

Mr. Paley's inference from these positions is, that "the method of coming at the will
 "of God concerning any action by the light
 "of nature is to inquire into the tendency of
 "that action to promote or diminish the ge-
 "neral happiness."

This is certainly not a regular deduction : there is by no means a necessary connexion between the premises and the conclusion. Were the powers of the human intellect unlimited, and capable of deriving knowledge from *any* specified source, of drawing it forth from *every* secret repository in which it is stored, Mr. Paley's conclusion would be just. For, in that case, in order to indicate the method of obtaining knowledge of any kind, nothing more would be requisite than that the storehouse in which it is hidden should be specified. But as human faculties are circumscribed and imperfect, it is not only possible, but very probable, that with respect to various subjects they may not be competent to deduce knowledge from sources, from which, were those faculties more extensive and more powerful, we should have been able to obtain it. If, for example, we were desirous of knowing the

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will

will of the Almighty on a particular point, and had learned by some incontestible proof that he had communicated that will to the angels; what should we think of the adviser who should seriously direct us to consult the angels respecting it? No one can be said to have pointed out the method of acquiring the knowledge either of the will of God, or of any other subject, unless, after having shewn the source from which, abstractedly speaking, it is derivable, he prove, in the next place, that man has faculties enabling him to derive it from that source. Now on the latter head Mr. Paley is totally silent. He lays before us an undoubted abstract source of the knowledge of the will of God concerning human actions, namely, their tendency to promote or diminish the general happiness: but he makes not the smallest attempt to prove that our faculties are such as to enable us to derive this knowledge from the source in question. He contents himself with directing us "to inquire," when he should have proved us able to *discover*. This important chasm in his argument, entirely destroys the validity of his conclusion; and, until it be supplied, his declaration that "an inquiry into the tendency of actions to pro-

" mote

"mote or diminish the general happiness,"
 (or, in other words, the rule of general expediency) "is the method of coming at the will
 "of God," can be considered in no other
 light than in that of an assertion unsupported
 by proof. "What though I admit," some hesitating reader of Mr. Paley's treatise may observe, "that the Almighty wills and wishes the
 "happiness of mankind, is it therefore a certain
 "and self-evident truth, that in determining by
 "the light of nature the morality of any action, I am to regard nothing but my guesses
 "at its tendency to promote or impede the
 "general happiness? Mr. Paley tells me that
 "I am to determine it thus, and thus only;
 "and of course means me to understand that I
 "have faculties equal to the office of thus
 "ascertaining it. But my security that he is
 "right with regard to either point, is merely
 "his unsupported assertion. Is it certain and
 "self-evident that there is not one rule of morality which, under certain circumstances, it
 "may not be my absolute duty to violate?
 "Mr. Paley assures me that there is not one; and
 "tells me that it must be so, because the violation
 "of every moral rule may at times be generally
 "expedient. Here again, if I examine into

" the grounds of his reasoning, I find it resting
 " solely on his former assertion. Is it certain
 " and self-evident that God may not have
 " placed within the reach of our faculties bet-
 " ter rules of natural morality, better to us,
 " because more obvious and more safe than
 " the rule of general expediency? Mr. Paley
 " tells me that he has not; and that every
 " other moral rule is liable to the same or
 " to greater danger of error and abuse. But
 " for these facts also, if facts they be, I have
 " no assurance but his bare assertion."

The preceding remarks may be confirmed
 and illustrated by inquiring how far Mr.
 Paley's mode of reasoning would be deemed
 satisfactory or admissible on other occasions.

When St. Paul's cathedral was erected, the
 architect willed and wished the excellence of
 the edifice. This position we will suppose to
 be allowed. Consequently those proceedings of
 the workmen, which should promote that will
 and wish, must have been agreeable to him; and
 the contrary. Granted also. Therefore the
 method which it was right for the workmen,
 individually, to pursue, if they were at any
 time

time without specific instructions, in order to ascertain his will respecting any proceeding, was to inquire into the tendency of that proceeding to promote or diminish the excellence of the structure. If one of the masons had reasoned in this manner, and, in conformity to his rule, had commenced, at his own discretion, an arch in one place, and formed the rudiments of a dome in another, would he have been able to exculpate himself from the charge of presumption? would his arguments have been judged logical, and accepted by the architect as a defence of his conduct? would he have been allowed to be capable of ascertaining the will of Sir Christopher Wren from his own crude ideas of architectural expediency?

This example may sufficiently shew how inconclusive Mr. Paley's mode of reasoning must have been pronounced, even if he had applied it in those cases only, with respect to which we do not derive precise instructions from Revelation. But his argument will still more clearly appear to be altogether inadequate to the support of his rule, when we reflect that notwithstanding his original statement, that

the will of God is in the first place to be collected from the declarations of it contained in the holy scriptures, he in fact renders this rule in its application ^c paramount to the directions which God has given to us in the scriptures; and authorises every man to disobey the most positive divine commands whenever, in his opinion, the observance of them would, on the whole, be inexpedient. Let us recur to the instance by which I have already endeavoured to illustrate my argument. Let us suppose the mason not only to have commenced an arch and projected a dome without instructions, but to have done this contrary to his instructions; or to have pulled down an arch and a dome already finished, and making a part of the architect's plan. Let us farther suppose him to have vindicated his conduct by a repetition of his former defence, and to have continued his justification of himself in the words, *mutatis mutandis*, in which Mr. Paley pursues his reasoning at the commencement of

^c See the extracts from Mr. Paley, in the latter part of the preceding chapter. An instance of Mr. Paley's manner of applying his rule to the interpretation of scripture will shortly come under consideration in the subsequent pages.

his chapter on Utility ; “ So then my proceeds
 “ ings are to be estimated by their *tendency*.
 “ *Whatever* is expedient is right. It is the uti-
 “ lity *alone* of any one of your orders which
 “ constitutes the obligation of it.” ‘ You must
 ‘ allow too,’ he would proceed, ‘ that every
 ‘ order is to be disregarded when utility re-
 ‘ quires ; that with respect to every ^d order
 ‘ such cases may occur ; and that every ^e man
 ‘ is to judge of them for himself. Consequently
 ‘ your directions respecting the arch and the
 ‘ dome appearing to me inexpedient, I was at
 ‘ liberty, and even obliged in conscience, to
 ‘ disobey them.’ Would the workman have
 been heard with patience ? Would his teme-
 rity have escaped a prison ?

The preceding observations evince that the
 proof which Mr. Paley alleges of his principle
 of general expediency is radically defective.
 This principle, therefore, together with the
 whole system built upon it, falls to the ground.
 It might indeed still be established, if its
 asserters (on whom the onus probandi un-
 deniably lies) were able to substitute valid
 arguments in the place of those which have

^d Paley, P. 411, Vol. II.

^e Paley, P. 142, Vol. II.

been shewn to be inadmissible. The object of some of the following chapters will be to shew that all endeavours to that purpose must be fruitless; for as in this chapter sufficient evidence has been produced, that the rule of general expediency has not been proved to be true, in them it will be demonstrated to be false.

C H A P. IV.

ARGUMENTS FURNISHED BY MR. PALEY'S PRINCIPLE
AGAINST ITSELF.

I PROPOSE to consider in this chapter the nature and tendency of the rule of expediency; and to investigate the effects which the general reception of it would apparently produce on the conduct and happiness of mankind.

After a perusal of the sentiments which I have expressed concerning the principle of general expediency, my readers will be aware that reasoning of the same kind with that to which I am now about to resort, would not have much weight with myself if it were urged *in support* of a rule of morality. For they must necessarily perceive, on the one hand, that to examine what effects the admission of Mr. Paley's principle would produce on human happiness, is, in fact, to examine how far the admission of it would be generally expedient for mankind; and, on the other, are apprised by what has been already said, that a proof that
its

its reception would probably be beneficial, would not of itself be sufficient to impress me with a conviction of its being the criterion of morality. Yet, on the present occasion, arguments of this nature are not only allowable, but important; for though the result of the inquiry, were it to evince the probable utility of Mr. Paley's rule, would be insufficient to prove it true, yet a proof that its reception would be pernicious, would incontestably prove it false; since no principle can be true which is at irreconcilable variance with itself. If I shall afford ample grounds for apprehending Mr. Paley's rule to be a *felo de se*, to destroy itself by the inferences which may fairly be deduced from it, I shall have adduced an argument against it which may to some minds be the most conclusive of any which can be alleged; and to all, the best preparation for an unbiassed reception of the reasoning contained in the two following chapters.

A moralist, possessed, like Mr. Paley, of a sound and penetrating understanding, actuated by a sincere reverence for the scriptures, a firm attachment to virtue, and a decided abhorrence of vice, must maintain, if he also
concur

concur in Mr. Paley's principle, that in certain possible cases he should deserve not merely pardon, but approbation, from his fellow-creatures, for actions which are usually deemed the blackest crimes. He must maintain that circumstances ^a may arise which shall entitle him, on scriptural grounds, to the reward of everlasting glory at the judgement-seat of Christ, for his rapine, for his hypocrisy, for his perjuries, for his murders, for having betrayed his country, or abjured his God. He must maintain that his private opinion of future contingencies is the standard which alone establishes the meaning of the plainest precepts, and the obligation of the most positive injunctions, of the gospel.

From Mr. Paley's concessions it must be allowed that no one of the cases described is too extravagant to be verified by facts, or to be authorised by general expediency. But if his previous declarations would have permitted him to assert that no crime, such as those which I have specified, can ever be generally

^a Paley, P. 411, Vol. II.

expedient (an assertion which, on grounds very different from Mr. Paley's, may be firmly established), his principles would still supply a fundamental objection against themselves. For in estimating the consequences which would accrue to human happiness, from their general reception, they require us to take into the account not only those conclusions which are fairly deducible from them, but those also which we may reasonably suppose will be inferred, or successfully represented as inferred, from them by a considerable part of mankind. Now, in the first place, they would fully justify a man to his own conscience in the commission of any one, or all, of the enormities which I have mentioned, provided he were *persuaded* of the general utility of his conduct, whether that persuasion were the result of reason, of prejudice, or of fanaticism. And, in the second place, it surely cannot be doubted that not only fanaticism and prejudice, but that reason herself would continually mislead him who should argue from Mr. Paley's principle, when it is considered that the premises, from which his conclusions are to be drawn, are as uncertain in their nature as they are unlimited

in their number; being mere conjectures respecting an endless train of future consequences.

We have already seen what would be the undeniable and necessary fruits of this doctrine when applied by a wise and virtuous moralist. What then would be its effects when applied by a man possessed of wisdom, but destitute of virtue; or of virtue, but destitute of wisdom; or equally deficient in both? Would it not be made to assume every form under the hand of artifice, and to countenance every practice under the control of passion and interest? How would it be narrowed and contracted when submitted to the ignorance of the bulk of mankind, so little qualified to discover and appreciate even apparently obvious causes of utility, to foresee the more direct and immediate consequences of actions, and to comprehend the most simple of the designs of ^b Providence.

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^b Mr. Hume, the original inventor of the rule of general expediency, not only admits these consequences, but has the address to represent them as arguments in favour of his system. Speaking on this subject, he says, (Essays, London, 1764, P. 298, note, Vol. II.) "It is
"wisely ordained by nature, that private connexions should
"commonly

In the light in which we are now contemplating the rule of general expediency, we are to pay particular attention to the use likely to be made of it by princes and men in power, supposing them to have adopted it, as their influence over the happiness of others is so extensive and so great.

Let us consider then, whether the admission of this rule would not be extremely favourable to despotism. A monarch is told that there is no such thing as right in opposition to general expediency; and he is also told that *he* is to judge of that expediency. He can scarcely meet with a principle more likely to mislead himself; nor need he wish for one more convenient when he is desirous of imposing upon others. If he be a good man, conscious of the purity of his views, and strongly im-

“commonly prevail over universal views and considerations:” in other words, that a principal recommendation of the rule is the certainty that it will rarely be obeyed. Without concerning myself to inquire whether Mr. Hume has taken the most prudent method of defending his principle, I am glad to avail myself of his authority, in support of the fact, that the rule of general expediency, if admitted, would, from its very nature, be seldom observed in practice.

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pressed with a conviction of the blessings which would arise from the success of his plans, how easily will it vindicate to his own satisfaction any line of conduct which he may wish to pursue! If he be ambitious and designing, it will never fail to supply him with specious reasoning, with which he may dazzle or blind a large proportion at least of his subjects, and prevent them from opposing with firmness and vigour those schemes against the public liberty, which, either by bold encroachments or by insidious machinations, he is attempting to carry into effect.

Nor would this principle point more directly, or lead more rapidly, to civil than to religious slavery. When the matchless benefits of true faith, and the invaluable happiness of everlasting salvation, were pressed upon him, how often would an ^c upright monarch be persuaded

^c Mr. Paley allows (P. 328, Vol. II.) that, if such conclusions as these would follow from his principle, it must be given up. That they do result from it, appears to me by no means doubtful. And in fact the reader has seen that it must be given up, if it be probable that such conduct, as these conclusions profess to authorise, would generally follow from its reception. Mr. Paley states, in

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perfect

suaded that general expediency required him to abandon the heretic to the zeal of the misguided, but well-meaning, priest! And how much more frequently would the tyrant and the bigot defend upon this plea the preconcerted sacrifice of an obnoxious sect to their rapacity and pride!

A moderate

perfect conformity to his principles (P. 329), that it is lawful for the magistrate to interfere in the affairs of religion *whenever* his interference *appears to him* to conduce, by its general tendency, to the public happiness. Will not such an appearance continually present itself to the eye of ignorance, of policy, and of enthusiasm? In the same place, and in the pages immediately preceding and following, Mr. Paley decides on the subject in equal contradiction to those dictates of reason, which require every man to be permitted to worship God quietly in the way which his conscience prescribes, while he neither infringes the civil nor the religious rights of his neighbour; and to the general tenor of the gospel, which reprobates persecution as being wrong and *unchristian in itself*, and not because in the long run it would prove unsuccessful. He authorises the magistrate to employ any kind of persecution whatever, if persuaded that on the whole persecution is useful in establishing religious faith. And the only security which he affords the subject against persecution is his declaration to the magistrate, that if generally adopted it would be pernicious, and therefore ought not to be employed by him. However the magistrate, if he should be disposed

A moderate knowledge of history will teach us that this reasoning is confirmed by numerous facts. The principle of expediency has been alleged to justify successive invasions of the civil and religious rights of mankind, too palpably unjust to be vindicated on any other plea. Was it not alleged when the Albigenes were devoted to the sword; when the fires of the Inquisition were kindled? Un-

disposed to adopt Mr. Paley's opinion on the latter point, will not fail to remember, that the same instructor has expressly forewarned him (Vol. II. p. 411.) that "no rule of morality is so rigid as not to bend to exceptions; that these exceptions cannot be comprised within any previous description; that the obligation of every law depends on its ultimate utility; that this utility has a finite and determinate value; and consequently that cases may arise in which the general tendency is outweighed by the enormity of the particular mischief;" that is to say, in which it becomes a duty to disobey the general moral rule on account of the mischief that would follow, or must be suffered to continue, were it observed. The magistrate, when under the strong pressure of present motives of bigotry or of interest, will probably not find much difficulty in persuading himself that the existing case is one of these lawful exceptions. And at any rate he would find this commodious doctrine of exceptions a very happy method of imposing on the understandings of others, and leading them to acquiesce in his plausible vindication of intolerance and cruelty.

happily for the world, its influence has not declined in modern times. Was it not the foundation of the abominable doctrines of the Jesuits, of their intriguing counsels as politicians, their unchristian compliances as missionaries? Have we not recently heard it maintained to vindicate the breaches of faith, and the tyrannical usurpations, which have blotted out the name of Poland from among the states of Europe? Do we not even yet hear it asserted to justify the horrors of the slave-trade?

I have selected the foregoing examples of the probable effects of the reception of this rule, as being capable, from their magnitude, of description and illustration. But perhaps I should speak with truth and accuracy were I to affirm that the numberless train of evils which would spring from the same source, and infest private life, though singly not sufficiently prominent to be characterised, would collectively produce an aggregate of misery greater than all that might arise from the instances which I have produced.

Upon inquiry I believe it will be found that most systems of oppression have been justified,

or

or palliated, on the principle laid down by Mr. Paley, as being the principle on which a defence of them could be the most easily attempted.

I anticipate the reply which an advocate for that principle would probably return to the observations contained in the present chapter. He would allege that all moral rules, since they depend in their exercise on private judgement, may be misconstrued and perverted; that a charge, which may be indiscriminately urged against every standard of morality, is not of itself sufficient to evince the falsehood of any; that I have taken for granted, rather than proved, that the rule proposed by Mr. Paley is more difficult to be applied, and more liable to be abused, than other elementary principles of ethics.

Let us then briefly examine whether the principle of justice, which, antecedently to the publications of Mr. Hume and of Mr. Paley, was generally admitted, in argument at least, if not in practice, to be paramount to every other moral consideration, be exposed to equal

danger of error and abuse in the application with the principle of utility.

Justice deduces her conclusions from premises which are always definite; and, commonly, few and simple. Utility must reason from premises avowedly subject to no limit; unless she can affix a bound to the number and to the extent of that series of consequences, which may arise from the actions respecting which she is to decide: consequences "collateral, remote, immediate, and direct; "as in computing consequences it makes no "difference in what way or at what distance "they ensue^d." Justice reasons wholly from facts; which are naturally capable of being ascertained. Utility argues from mere conjectures respecting contingencies; which are of course incapable of proof. Justice lays down a system of precise and unalterable rules. Utility confesses that she can frame "no rules "without exceptions, nor comprise those exceptions within any previous description." Let the candid reader judge, from this short

^d Paley, Vol. I. p. 78.

comparative statement, whether the principle of justice or that of utility affords the greater latitude for error in speculation, as well as the more ample scope for abuse in practice.

Mr. Paley himself, in some parts of his work, particularly in his chapters on utility and on general rules, seems strongly impressed with a sense of the mischiefs which would ensue, if men were permitted to disobey the commands of justice whenever such conduct should appear to them expedient. His argument, in the passages to which I allude, coincides with mine in this chapter, and is incompatible with the admission of the principle which he recommends. A short extract will prove the truth of these assertions. Mr. Paley denies * that an oppressor may be assassinated by any one who thinks him "better out of the way than in it;" because "if you allow this excuse in the present instance, you must allow it to all who act in the same manner, and from the same motive; that is, you must allow every man to kill any one he meets whom he thinks noxious or use-

* Paley, P. 73, Vol. I.

" less; which, in the event, would be to com-
 " mit every man's life and safety to the spleen,
 " fury, and fanaticism of his neighbour; a dis-
 " position of affairs which would soon fill the
 " world with misery and confusion; and, ere
 " long, put an end to human society, if not
 " to the human species." Now, has not Mr.
 Paley, in these words, described and stigma-
 tised his own principle? Does not his doctrine
 of general expediency, which pronounces no
 moral rule to be free from exceptions, and au-
 thorises every man to perpetrate whatever *he*
conceives to be useful, commit the property,
 the liberty, and the life, of each individual to
 the spleen, fury, and fanaticism, of his neigh-
 bour; and open wide a door to enormities
 subversive of social happiness, and destructive
 of mankind?

I will conclude these remarks with re-
 questing such of my readers as are inclined
 to adopt Mr. Paley's principle, to take the
 following questions into their serious consid-
 eration.

First; does it appear probable, *a priori*, that
 the Almighty would leave his creatures to
 the

the guidance of so vague and so dangerous a rule?

Secondly; if an unprejudiced person were to argue from general expediency alone, would not his first conclusion be, that this rule of conduct should not be adopted by men?

C H A P. V.

PROOF THAT MR. PALEY'S PRINCIPLE IS IRRECONCILE-
ABLE WITH THE SCRIPTURES.

I PROCEED in the next place to shew, according to the method originally proposed, that the adoption of the rule of general expediency as the standard of morals, is absolutely incompatible with obedience to scripture.

I wilh, however, previously to notice the tendency of that rule to impede the reception of the scriptures, and of the religion which they teach, among those who at present deny their divine authority. It is a tendency too important to be passed over without observation.

I willingly admit that Mr. Paley does not lay down, or expressly defend, the position, that utility is the criterion of religious truth. Yet it is evident, from the passages which I have already quoted from his work, as well as from its general tenor, that he maintains utility,

ty, of which every man is to judge for himself, to be the only infallible test and criterion of the Divine will. If an infidel then were to undertake seriously to investigate the truth of Christianity, he ought, in the first place, to fix his attention on the determination of this fundamental point, whether the reception of the gospel would or would not, in his opinion, promote the general happiness of mankind.—For, according to Mr. Paley's principle, the result of his inquiries into that point must decide, whether it can be the will of God that the Christian religion should be embraced by men. In other words, the result of those inquiries must decide whether it be true that the Christian religion has God for its author. If, in examining the question, whether the reception of the gospel would or would not be useful on the whole, he should decide in the affirmative, he must consider all further evidence of every kind concerning the truth of Christianity as useless; as being of a far inferior nature, and able to add nothing to the conviction already produced by the decisive testimony of general expediency: and he would continue a Christian, unless, by entangling himself in the labyrinth of remote contingencies,

cies, he should think that he discovered greater expediency in some other system; the whole or the *more expedient* parts of which he would then be bound to adopt. But what if he should determine in the negative?—Unbelievers^a in general profess thus to determine; and Mr. Hume, in the latter sections of his Inquiry into the Natural History of Religion, gives on this very ground no obscure preference even to polytheism. He must, without hesitation, pronounce our religion an imposture, although he were to be convinced that all the various testimonies, on which its

^a Warburton, in his Alliance between Church and State, (4th edition, P. 78, note) affirms, that Bayle, Collins, Tindal, Bolingbroke, and *all* the other writers against Revelation, except Hobbes, laboured to shew the Gospel-system to be in the highest degree unreasonable. A reference to Leland's account of deistical writers will shew that by the term "unreasonable" Warburton did mean, or might fairly have meant, inexpedient. He also quotes (Alliance, P. 250) some expressions from Rousseau, which sufficiently indicate that author's opinion: "Christianity
"preaches up nothing but slavery and dependance. The
"spirit of it is too favourable to tyranny for her not
"always to take the advantage of it. True Christians are
"made to be slaves, &c." To these names that of the celebrated Historian of the Roman Empire may be added.

truth

truth is usually rested by Christians, are singly and collectively irrefragable. That the gospel promises to mankind the greatest of all blessings, and blessings which fully accord with our ideas of its divine original, no unprejudiced man, who understands it, will hesitate to maintain. But as he is far from doing justice to the cause of Christianity, who represents its apparent expediency as the *only* evidence in its favour deserving of consideration; so is he also who inculcates a doctrine, from which that conclusion must necessarily be deduced.

These observations, which seem not irrelevant to the general argument, being premised, we may now proceed to the immediate object of the present chapter.

Though Mr. Paley professes to derive his principle from the will of God, he has not in any part of his work attempted to prove its conformity with the only direct revelation of the Divine will at present extant among mankind. This somewhat singular omission certainly does not make it the less necessary for his readers to bring his rule to the test of holy writ.

writ. And they will be induced to attend to this trial with suspicious care, when they reflect, that the ^bvery criterion of morality, recommended by Mr. Paley, has been employed by the eminent historian whom I have already

^b Though Mr. Paley and Mr. Hume agree in assuming utility, estimated by general tendencies, as the standard of morals, they differ essentially with respect to the source from which they derive that principle, and the sanctions on which they ground the obligation of conforming to it. Mr. Paley considers the rule of general expediency as *flowing from the will of God, and as enforced by the certain prospect of rewards and punishments in a future life.* Mr. Hume represents it as *suggested by nature*; and has no inducements to offer in its favour, besides *the present consequences of adopting or disregarding it.* Those who have learnt, from the conduct of others and from their own, how frequently the glories and the terrors of another world fail to ensure obedience to the revealed declarations of the will of God, will judge what might be expected from a *suggestion of nature*, sanctioned by mere *temporal* motives, when opposed to the selfishness and passions of men; and will be convinced that whatever be the true principles of morality, the observance of them can be secured by no ties less powerful than those of the gospel.

It would have been uncandid towards Mr. Paley not to have noticed the above-mentioned difference between himself and Mr. Hume; though it is a difference which does not affect my present argument.

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named in a palpable attack on Christianity. Though the principle of utility ought not to be condemned merely because it has been an instrument for the support of scepticism and infidelity in the hands of a Hume, yet this circumstance naturally raises apprehensions, which even the authority of a Paley ought not to silence, and loudly demands the inquiry on which we are about to enter.

The first consideration which will strike an attentive mind is the total silence of the Old and New Testament on the subject of general expediency. In no part^c whatever of holy writ

^c The direction "to do good unto all men," will scarcely be alleged as a scriptural proof of Mr. Paley's principle. It neither commands nor exhorts us, in doing good, to follow our ideas of general expediency, as the standard of moral obligation. It simply points out a duty to be performed; and leaves us to collect, from other quarters, the principles on which we are to proceed, and the manner in which the injunction is to be obeyed. So likewise the precept, "Love is the fulfilling of the Law," has no reference to the subject of the present inquiry. It teaches us that benevolence is to be exercised on every proper occasion; but it does not intimate, that we may shew our love for one man by infringing the rights of another, if such a step should be suggested by our conceptions

writ are we directed either expressly or by implication to frame our conduct in obedience to this rule. The instructions therein contained are, like the duties which they enforce, of two kinds ; some are precise and absolute, as the injunctions prohibiting idolatry, perjury, and various crimes ; others, equally obligatory, are indeterminate, as the precepts enjoining reverence of parents and charity to the poor. With regard to the performance of duties of the first class, no scope is given for the exercise of human discretion, no deviation allowed as justifiable through any consideration of the consequences of obeying ; man is peremptorily commanded to abstain from the forbidden act. As to the others, though, in general, we are left to judge of the manner in which they are to be discharged, yet it is by no means intimated in Scripture, that our determination is to be governed by the principle stated by Mr. Paley : and it will hereafter be shewn, on grounds of natural reason, that

tions of utility. Similar reasoning would shew, that no argument in favour of general expediency could be drawn from the scriptural rule, " to do every thing for the glory of God."

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this cannot be conceived to have been in any case intended by our Maker.

But, in the next place, the silence of the scriptures is not the only nor the strongest reason we have for concluding that Mr. Paley's principle is inconsistent with Christianity. Revelation admits of no agreement or parley with a doctrine utterly subversive of the spirit and obligation of her precepts. The statement of Mr. Paley's positions, which has been given in the second chapter, together with some of the remarks made upon them in the fourth, affords incontestable proof that, in his opinion, there is no command in holy writ, however plainly expressed, however forcibly inculcated, which a man is not permitted, which he is not bound, to violate whenever his blindness, his interest, his frenzy, induce him to imagine that the violation will ultimately be productive of advantage. Every man is thus invested with an unlimited dispensing power, authorising him to take the government out of the hands of God, and to decide when his laws are proper, and when they are not proper, to be obeyed. Such a dispensing power has not hitherto been ad-

mitted among Protestants; and it is as little to be tolerated, and as little to be justified, on the plea of general expediency as on that of infallibility.

Mr. Paley observes concerning honour what he might, with no less truth, have affirmed of general expediency, that, "if its unauthorised laws^d be allowed to create exceptions to divine prohibitions, there is an end of all morality, as founded on the will of the Deity; and the obligation of every duty may at one time or other be discharged by the caprice and fluctuation of fashion," and, it may be added, by the suggestions of selfish ignorance.

It may not be useless to produce one of the instances in Mr. Paley's work, in which an adherence to his principle has led him to conclusions at variance with the scriptures.

In his chapter entitled "The Consideration of General Consequences pursued," we meet with the following lines: "From the principles delivered in this and the two pre-

^d Page 273, Vol. I.

^e Page 81, Vol. I.

“ceding chapters, a maxim may be explained,
 “which is in every man’s mouth, and in
 “most men’s, without meaning, viz. *not to do*
 “*evil that good may come*—that is, let us not
 “violate a general rule for the sake of any
 “*particular* good consequences we may ex-
 “pect—which is *for the most part* a salutary
 “*caution*, the advantage *seldom* compensating
 “for the violation of the rule.”

This explanation of the precept is no less
 circumscribed than the permission of discreti-
 onal exceptions is unauthorised. When St. Paul
 rejects totally, and with abhorrence, the doc-
 trine of doing evil that good may come, and
 affirms of those who falsely imputed it to him,
 that their condemnation is just; on what scrip-
 tural grounds can the precept in question be
 called by so light a name as a caution? On
 what scriptural grounds can it be inferred,
 that the opinion which we may entertain of
 future consequences, whether particular or ge-
 neral, will in any case absolve us from obedi-
 ence? Let the reader fairly put a case to
 himself: let him suppose that it were in his
 power to obtain the management of a great
 empire by means of perfidy and murder; and

that he were persuaded that the consequences of his taking those previous steps would be on the whole beneficial to mankind. Would he then take them? Would he listen to the tempter who suggests to him, "All ^f these " things will I give thee if thou wilt fall down " and worship me?"

The asserter of Mr. Paley's system maintains that he ought.

"Nay ^z but, O man, who art thou that re-
" pliest against God?"

The utmost which Mr. Paley's principle will allow him to affirm of the clearest and strongest injunctions of scripture, even of those which command us to worship God and to love him, to abstain from idolatry, from fraud, from oppression, and from any other crime forbidden either in the decalogue or in other parts of holy writ, is, that they are "*for the most part salutary cautions, the advantage seldom compensating for the violation of the rule.*" In his opinion times and cases may occur, of which every man is to judge for

^f Matt. iv. 9.

^z Rom. ix. 20.

himself,

himself, when the advantage of breaking the law will preponderate. For “no rule^h of morality is so rigid as to bend to no exceptions; the obligation of *every* law depends on its utility; and this utility having a finite and determinate value, situations may arise in which the general tendency is outweighed by the enormity of the particular mischief.” I am not surprised, that Mr. Paley should deduce this inference from his opinion respecting general expediency; for the former is the natural and necessary consequence of the latter. Yet I cannot but wonder that a religious and considerate mind, on arriving at this conclusion, did not instantly revolt from the principle from which it flows.

^h Page 411, Vol. II.

C H A P. VI.

DEMONSTRATIVE REFUTATION OF MR. PALEY'S
PRINCIPLE FROM NATURAL REASON.

A FORMER chapter was employed in pointing out the insufficiency of the proof by which Mr. Paley endeavours to support his proposed rule of general expediency. My readers may recollect that the circumstance fatal to his argument, was his not having shewn, nor even attempted to shew, that man has faculties capable of discovering what is generally expedient. It is my present purpose to evince that the deficient link in the chain of his reasoning can never be supplied.

Mr. Paley having stated, as we have already seen, that the Almighty makes the ultimate happiness of his creatures the rule of his conduct, (a position which is incontrovertible, if the terms of it be understood in their full extent,) immediately proposes this general plan of Providence as the invariable object of our imitation ; as the supreme moral standard,

dard, by which we are to regulate all our actions.

But are we to assume, as a self-evident proposition, that the path marked by the steps of Omnipotence is the track in which weakness and frailty are to tread? Does it admit of no doubt, whether the principle which gives birth to the decrees of eternal wisdom be the ground on which short-sighted ignorance may best attempt to found its conclusions? Does the infinite distance between the Creator and the created afford no room for apprehension that the endless chain of causes and effects, however naked and open to the sight of God, may be involved in clouds and darkness utterly impenetrable to the eye of man: and consequently that it may be the wise purpose of Providence that man, instead of endeavouring to regulate every action by a direct reference to the great end which the Deity proposes to himself, should fix his attention on other not less certain, but less extensive rules of morality, more adapted to his limited faculties, and of course more easy to be rightly understood and applied?

On another occasion Mr. Paley shews himself sufficiently aware, that the general rule by which the dispensations of the Almighty are directed cannot be adopted as the guide of human actions. In his chapter on crimes and punishments, after stating that the object of the Deity, in the infliction of the latter is exactly to proportion the degree of pain to the guilt of the offender, and that of men, merely to prevent crimes, without regard to any such proportion; he remarks, that “^a it is
 “ natural to demand the reason why a different measure of punishment should be expected from God, and observed by man;
 “ why that rule, which befits the absolute
 “ and perfect justice of the Deity, should not
 “ be the rule which ought to be pursued and
 “ imitated by human laws. The solution of
 “ this difficulty must be sought for *in those*
 “ *peculiar attributes of the divine nature,*
 “ which distinguish the dispensations of supreme wisdom from the proceedings of human judicature. A Being, whose knowledge penetrates every concealment; from
 “ the operation of whose will no art or slight

^a P. 273, Vol. II.

" can escape ; and in whose hands punish-
 " ment is sure ; such a Being may conduct
 " the moral government of his creation, in
 " the best and wisest manner, by pronouncing
 " a law that every crime shall finally receive
 " a punishment proportioned to the guilt
 " which it contains, abstracted from any fo-
 " reign consideration whatever ; and may
 " testify his veracity to the spectators of his
 " judgements, by carrying this law into strict
 " execution. But, when the care of the
 " public safety is intrusted to men, whose
 " authority over their fellow-creatures is li-
 " mited by defects of power and knowledge ;
 " from whose utmost vigilance and sagacity
 " the greatest offenders often lie hid ; whose
 " wisest precautions and speediest pursuit may
 " be eluded by artifice or concealment ; *a dif-*
 " *ferent necessity, a new rule, of proceeding*
 " *results from the very imperfection of their*
 " *faculties.*"

Now the divine rule of inflicting punish-
 ments comes recommended to us by the same
 sanction on which the rule of general expe-
 diency is proposed ; namely, by the conduct
 of the Almighty. Had Mr. Paley originally
 employed

employed with respect to the latter, the same train of reasoning which he has adopted concerning the former, he could scarcely, I think, have failed to discern that the imperfection of our faculties, compared with the peculiar attributes of the divine nature, proves the same necessity for a different rule of human actions in the one case as in the other.

From the very principle of divine benevolence, on which Mr. Paley attempts to found his doctrine of general expediency, we must be convinced that our Maker would never subject his creatures to a rule, which it is impossible for them to apply, and consequently to obey. A moment's reflection may be sufficient to teach us, that such is the rule^b proposed by Mr. Paley. General expediency is an instrument not to be wielded by a mortal hand. The nature of general consequences is

^b "By presuming to determine what is fit and what is beneficial, they presuppose more knowledge of the universal system than man has attained; and therefore depend upon principles too complicated and extensive for our comprehension; and there can be no security in the consequence when the premises are not understood."

Dr. Johnson's Journey to the Western Isles, p. 253.

too comprehensive to be embraced by the human understanding, too dark to be penetrated by human discernment. In contemplating an action, who can form any adequate judgement of its collateral and remote effects making unceasing approaches towards infinity and eternity? Yet (as Mr. Paley^c observes), “ in computing consequences, it makes no difference in what way or at what distance they ensue.” In instances the most level to our capacities we perceive no more than a part of the effects which may result from our conduct; a part perhaps which, in point either of extent or of importance, bears no assignable proportion to that which remains unseen. A faint glimpse of *particular* expediency is all that can ever be attained by the wisest of men. A view of general utility is the property of God alone; in him alone it is inherent; to created beings it may be incommunicable: but, whether communicable or not, it can never be the foundation of a rule of conduct to those on whom it has not been bestowed. A proof that general good is highly difficult of investigation would have

^c Page 78, Vol. I.

rendered it improbable that mankind should, in all cases, be required to consult it : a proof that it is never to be discerned demonstrates the impossibility of their being required to consult it in any.

The description which Mr. Paley^d gives of his own rule well deserves our attention. He says, after having represented the duties of states as much more difficult to be discovered than those of private men, that “ it is impossible to ascertain every duty of individuals by “ an immediate reference to public utility,” for this reason among others, “ because such reference is often times too remote for the direction of private consciences.” Yet a reference to public, or, as it is elsewhere called, general utility, is the rule by which alone Mr. Paley maintains that the conscience of every man in every instance is to be directed. Had Mr. Paley said, that such a reference is *always* too remote to ascertain *any* duty of an individual, or of a nation, he would have given an accurate description of his rule ; and a description which would at once have shewn it

^d P. 412, Vol. II.

to be such a rule as Providence can never have designed to be consulted by man.

But perhaps it will be said that I have been combating a phantom raised by myself ; that Mr. Paley by no means intended to affirm that our moral conduct is to be guided by an actual view of general expediency in this comprehensive sense, that view being confessedly beyond the reach of our faculties ; but that our actions are to be regulated by what appears to us to be expedient, as far as we can discern their probable consequences.

Such an explanation affords no support to Mr. Paley's system. It is a confession that we are to look not to *general* expediency, but to an expediency, which, as far as it actually exists at all, extends merely to the few, and perhaps unimportant, consequences which we can distinguish ; in other words, to *particular* expediency, and that of a most limited kind.

It will not be difficult to direct the reader's attention to a few conclusive arguments, which will demonstrate the inadmissibility of this rule of particular expediency. Let us, however,

however, previously inquire whether it appears to be a rule, the observance of which would best enable us to promote the divine plan of universal good; and whether the duty of observing it can be established on that foundation, on which Mr. Paley's reasoning in support of his principle avowedly rests.

In the first place, Does the rule under consideration appear to be such, as would most effectually enable us to promote the divine plan of universal good? Is the degree of expediency, which we can discern, in any case such as to justify us in inferring that we have a tolerable insight into general expediency? Surely no one will answer in the affirmative. As well might an Abyffinian pretend to delineate the whole course of the Nile, in consequence of having traced the windings of the infant river for a few miles contiguous to his hut. As well might a fisherman infer, that his line, which has reached the bottom of the creek in which he exercises his trade, is therefore capable of fathoming the depths of the Atlantic. He, who has had sufficient humility to become convinced how feeble and imperfect are the powers of the strongest human

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man understanding ; how inconsistent are the conclusions which he forms at one time with those which he deems just respecting the same subject at another ; how few are the consequences which he can foresee, compared with those which are wrapped in obscurity, will be the most ready to confess his ignorance of the universal effects of his actions.

If this argument wanted confirmation, it might receive it from a view of the moral, to say nothing of the natural, government of the world. Even though we are previously convinced that the great object of the Almighty is the happiness of his creatures, in numerous instances we see very imperfectly, and in many others not at all, how the detail of his operations conduces to the end which he has in view. Sometimes presumptuous ignorance would lead us to imagine that we perceive circumstances which militate against it, as the permission of moral evil ; others wherein there is an appearance of imperfection, as in the late establishment and partial diffusion of Christianity ; and numbers which seem indifferent to the design proposed, or neither fully nor directly to conduce to it. If then we are
so

so far from discovering the propriety and excellence of the parts of a system, which we are certain is framed in exact conformity to the standard of general expediency, we may the more easily be convinced how little our utmost sagacity can discover of the ultimate tendency and effects of our conduct ; we may be assured that we are wholly unqualified to determine whether those actions, which seem to further the particular expediency within the reach of our foresight, would or would not conduce to general good ; that the limited knowledge of expediency attainable by the wisest of men is unfit to be adopted as the basis of moral rectitude ; and that, if it were adopted as such, we should very frequently be acting in direct opposition to the will of God, at the time when ^e we had fondly persuaded ourselves that we were most strenuously and successfully employed in promoting it.

In the next place, Can the duty of obeying the rule in question be in any degree fixed on the foundation, upon which Mr. Paley's ar-

^e This has particularly been the case with religious persecutors, but by no means with them alone.

gument in behalf of his principle avowedly rests; that is to say, on the will of the Almighty evinced by his conduct? Undoubtedly it cannot. Our knowledge of the attributes of the Deity enables us to assert his universal benevolence; but our experience of his dispensations by no means permits us to affirm that he always thinks fit to act in such a manner as is productive of particular expediency; much less to conclude that he wills us always to act in such a manner as we suppose would be productive of it. This truth appears sufficiently plain from the considerations which have been recently stated: but here revelation comes to the aid of reason, and precludes all further argument on this subject. The Jewish Scriptures abound with instances of particular evils brought, as it is therein declared, by the hand of the Almighty, on individuals and on nations for their ultimate benefit. And the Gospel instructs us that our heavenly Father has not adopted a different conduct under the Christian dispensation. We know that he wishes the happiness of each individual; yet how often does he inflict on his faithful servant a particular calamity, the disappointment of promising hopes, bodily distempers, mental

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disability?

disability? Who would think himself authorised by his views of expediency in inflicting these, or similar calamities? But in the hands of the Almighty occasional evil is frequently employed, how frequently we know not, as an instrument of producing general good: as the drug, which in its own nature contains a deadly poison, under the management of the skilful physician becomes a salutary remedy. General good we can affirm to be the uniform object of the divine conduct; particular good we can discern *not* to be that object. Consequently, whatever reason we might have for conceiving that we should be bound by the will of God to an invariable pursuit of the former object, if we were able to discern it; we can have none for concluding that he wills the latter to be the fixed criterion of our moral conduct.

It appears then that the rule of particular expediency would be far from assisting our endeavours to promote the divine plan of universal good; and that it cannot derive support from any reasoning produced by Mr. Paley in behalf of the principle which he recommends. If it be necessary to encounter a rule, equally
unattractive

unattractive and defenceless, with a plain and direct refutation, the reader is referred to the arguments which have been urged in the fourth and fifth chapters against the rule of general expediency. Every one of those arguments applies with the same force against the one principle as against the other; for both principles appear equally calculated to fill the world with oppression and misery, instead of answering their professed purpose of promoting universal happiness; and equally authorise every man to transgress every command of revelation at his discretion.

The remarks contained in the present and the three preceding chapters have finally brought us to these conclusions.

The principle of morals assumed by Mr. Paley, whether that principle be general or particular expediency, is totally devoid of proof. The conduct of the Almighty affords us no ground for inferring that he wills us to regulate our actions by the one or by the other. Reason rejects the former as totally inapplicable by man; and each of them as

leading to consequences subversive of itself.
And revelation forbids us to listen to doctrines,
either of which arms every man with unlimited authority to violate at his discretion her most sacred laws.

P A R T II.

GENERAL RIGHTS AND OBLIGATIONS OF MEN, DEDUCED FROM REASON AND RE- VELATION.

C H A P. I.

PRELIMINARY REMARKS ON THE GROUNDS FROM WHICH
THE PRINCIPLES OF HUMAN CONDUCT ARE TO BE
DERIVED BY NATURAL REASON — STATEMENT OF
CERTAIN PRINCIPLES.

It has been demonstrated in the former part of this treatise that general expediency is not the principle from which reason is to deduce moral conclusions ; and the question immediately arises, On what grounds is she to proceed ?

To this question I shall endeavour to give in the following pages a direct and satisfactory answer. But, before I reply to it, I wish sted-

fastly to fix one consideration upon the mind of the reader ; namely, that whatever may be the number or the magnitude of the errors contained in the answer which I shall give, they cannot in any degree affect the validity of the foregoing refutation of the rule of general expediency. That rule, I apprehend, has been proved to be inadmissible through its own radical and incurable defects. It cannot, therefore, derive support from the real or supposed mistakes in any other system ; for what has thus been demonstrated to be false can never, by any mode of comparative reasoning, be rendered true. So that if I should unfortunately prove unable to establish to the satisfaction of my readers the fundamental principles of morality, which I am about to lay before them, that circumstance will afford them no solid ground for recurring to the standard proposed by Mr. Paley. In that case they will do well to reject both the one and the other, and look elsewhere for a safer guide.

A recollection of the erroneous and fatal inferences, which we have seen would naturally be derived from a principle lost in remoteness and obscurity, will materially contribute

to facilitate our moral researches. It will convince us that the utility of the premises, from which rules of life are to be drawn, depends on their not taking their rise from too high a source, and on their being accommodated, as far as may be consistent with truth and sound argument, to the general level of the human capacity. From a view then of the situation and nature of man; a being placed on this earth by his Maker, endowed with peculiar gifts, and accountable for the use of them; the Divine will, respecting his conduct, may, I apprehend, be collected on several fundamental points; and a number of rules be deduced of easy application, and adequate to the purpose of directing his steps in every case on which the gospel is silent; rules, which will not only appear to be sanctioned by the uniform tenor of revelation, but in return will support and corroborate the injunctions of holy writ.

Mr. Paley having remarked that the will of God, the invariable standard of our conduct, is, in the first place, to be sought in Scripture; (a pre-eminence which the reader will remember Scripture does not practically maintain in

that author's application of his principle ;) and, if it cannot be discovered therein, is, in the next place, to be collected from general expediency, subjoins the following illustration ; which may perhaps ultimately appear rather to confirm the principles about to be stated, than the system which it was intended to support.

“ ^a An ambassador, judging by what he
 “ knows of his sovereign's disposition, and ar-
 “ guing from what he has observed of his
 “ conduct, or is acquainted with of his de-
 “ signs, may take his measures, in many cases,
 “ with safety; and presume with great proba-
 “ bility how his master would have him act
 “ on most occasions that arise: but, if he have
 “ his commission and instructions in his
 “ pocket, it would be strange not to look into
 “ them. He will naturally conduct himself
 “ by both rules: when his instructions are
 “ clear and positive, there is an end of all
 “ further deliberation (unless, indeed, he sus-
 “ pect their authenticity): where his instruc-
 “ tions are silent or dubious, he will endea-
 “ vour to supply or explain them by what he

^a P. 63, Vol. I.

“ has

“ has been able to collect from other quarters
 “ of his master’s general inclination or inten-
 “ tions.”

Where the ambassador’s instructions are clear, without doubt he will implicitly obey them: and where they are silent, or afford ambiguous light, it is equally true that he is to supply the defect, by considering to the best of his power what is likely to be his master’s will. But in the latter case, he is not by any means at liberty to govern all his measures merely by his own ideas of what may be generally expedient for his country. He knows that his master’s uniform design is to promote the general good of the empire; that design he is bound to further, but not by immediately and universally taking upon himself to judge what proceedings will be most beneficial. He revolves in his mind all those particular circumstances, all those specific facts, which afford a prospect of supplying the deficiency of his instructions, by giving him precise indications of his sovereign’s will, and consequently of the line of conduct which he ought to adopt. He reflects that his master has uniformly opposed the opening of this port, the shutting up of that

that river, the imposition of this duty, the repair of that fortress. To these points, though omitted in his instructions, and to all points clearly analogous to them, he rigidly adheres; perhaps he discerns them to be, on the whole, expedient for the empire; but, if he is unable to discover them to be so, if he imagines that he sees some appearance of the contrary, his conscience obliges him uniformly to insist upon propositions which his reason tells him are enjoined by the will of his sovereign.

In like manner when a Christian, in any particular instance, finds himself incapable of deriving clear and precise instructions from his gospel, as to the mode of proceeding which he ought to pursue; let him not seek or hope to remove his doubts by extending his view to a subject, which is incontestably beyond the reach of his faculties, and can, perhaps, be effectually contemplated only by an infinite mind. Let him, like the ambassador, consider his own peculiar situation; let him endeavour to collect the will of his sovereign on some specific and fundamental points; and, from the result of his inquiry, deduce subordinate rules for the direction of his conduct. There
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is another circumstance to be taken into the account: the ambassador may conceive that his master is mistaken; the Christian will not deem the same of his.

It may be necessary, before I proceed farther, to obviate an objection, which may perhaps suggest itself to the minds of some persons, against the propriety of a part of the investigations into which we are about to enter; against such, namely, as relate to the natural rights and obligations of men, considered independently of the modifications under which we behold them subsisting in civil society. To us, it may be said, who are happily established in the enjoyment of a highly advanced and refined state of social union; who have little, if any concern, either with individuals or with nations, except with those who are nearly at the same point in the scale of civilisation with ourselves; what benefit can result from examining into the rights and duties of the solitary savage? It is time that such abstract and unprofitable speculations, the learned lumber of antiquated moralists, should at length be renounced by those, who profess to have their eyes open to the actual condition of the world
around

around them, and desire to submit to their cotemporaries lessons of practical utility. Nay it is, to say the least, extremely doubtful, the objector may proceed to affirm, whether all the natural rights, which might be enjoyed by an unconnected individual, do not of themselves merge and become extinct the instant that he enrolls himself a member of a community. And hence all disquisitions respecting them appear the more palpably vain and unproductive.

The latter branch of the objection evidently requires to be considered in the first place.

The question whether any, and what, natural rights are retained by individuals in civil society, has excited much discussion. By some it is maintained that all natural rights are necessarily surrendered by men who enter into social communities. While others contend, that certain rights, which they specify, are necessarily retained in their full force by each individual member of every state. The reasoning on both sides of the question has in common been equally theoretical and unsatisfactory. And the source of the confusion appears

appears to have been an attempt to establish a general conclusion respecting a subject which does not admit of one. The question, it must be remembered, is not a speculative enquiry what natural rights it would be most advisable and beneficial for the members of civil society to retain; but what rights they actually do retain. It is not then to be determined by the opinion which a philosopher may adopt of the benefit or detriment likely to result from the surrender of all or of any particular natural rights. It is a question respecting facts; and respecting facts which may vary almost without limit in different times and places; and in each particular instance it must be decided by a reference to the laws and institutions of the community to which the investigation relates. In every community the individuals composing it, necessarily retain full possession of their natural rights, whatever those rights may be, in all respects in which no ^b written law, nor any unrecorded usage having

^b Thus Sir William Blackstone states that "political
 " or civil liberty, which is that of a member of society,
 " is no other than *natural liberty so far* restrained by
 " human laws, *and no farther*, as is necessary and expedient

having the force of law, has abridged or taken them away. If we reflect on the different stages of improvement in which civil societies have existed, and do now exist, we shall find it reasonable to conclude that they will be frequently discriminated each from the other by the different degrees of restraint imposed on the natural rights of their respective members. And an appeal to history, as well as a survey of the present state of the several nations in the old and in the new world with whose manners and institutions we are acquainted, will substantiate the validity of this conclusion. It would be absurd to suppose that in any community the natural rights of individuals remain in their original energy; for submission to partial restraint is implied in the very nature of civil society. And it is not less absurd to contend that in any community whatever they are completely annihilated. No state, however rigid and despotic in its form of government, ever did or could proceed in practice

“dient for the general advantage of the public. Every
 “man, when he enters into society, gives up *a part of*
 “his natural liberty.” Commentaries, Ed. 10th, Vol. I.
 P. 125.

to such an extreme of control. No state ever attempted to take away from its members all freedom of speech, all right of employing their time and their talents according to their inclinations, all right of self-defence. It has been said indeed, that all these rights, and more especially those relating to self-defence, are derived to the individual from the law of the land; being granted either by its tacit permission, or by its express declaration. This gratuitous assertion however, which takes for granted the very point in dispute, will not appear very reasonable, if it be made evident, as I trust it will be, in the following pages, that all the rights in question are of the number of the common rights originally belonging to every man by the gift of God, independently of the existence of the human law. And therefore the law, to which their origin is erroneously ascribed, whatever language it may hold, can be received in this meaning and construction alone; namely, as declaring that in the instances under consideration it does not exact a surrender of the natural rights of the individual; but either leaves them totally unconfined, or subjects them only to the specified limitations.

It has also been maintained, that there are certain natural rights which the individual members of a state cannot in any degree relinquish. Personal liberty has been placed in this class; though no satisfactory argument has yet been alleged by those who stationed it there to shew why he whom they confessed capable of binding himself to be in certain respects at the disposal of a master for a day or for a year, might not be competent to bind himself, if he should think fit so to do, to be at the master's disposal in the same or in other respects even for life. A similar deficiency of proof prevails in the case of the other examples commonly produced.

From the preceding remarks it appears manifest, that research into the original rights and obligations of unconnected individuals must necessarily precede all inquiries into the civil duties of men when united in society.— For the only objects, the disposal and arrangement of which can be claimed by any society, are the respective rights of its several members. The materials, therefore, must be collected before the fabric can be raised.

A reference

A reference to these rights and obligations must also regulate the conduct of the members of the same society towards each other, in all cases, when the gospel is silent, and the laws of the society do not give precise directions.

And a similar reference, the gospel being again supposed silent, must govern the behaviour of men towards all individuals not belonging to their own society, nor connected with it by any express or implied engagements.

I shall, therefore, in the first place, investigate, by a reference to natural reason alone, the primitive rights and obligations of mankind. And after having, in the next place, shewn that the conclusions deduced by means of that investigation fully accord with the general tenor of Revelation, I shall finally point out the principle, on which these rights and obligations may be suspended or modified in consequence of the institution of civil society.

In pursuance of this plan I shall begin with endeavouring to prove the truth of the following propositions.

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I. Every

I. Every man has originally a right, by the gift of God, to the unrestrained enjoyment of life and personal freedom ; and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.

II. He, therefore, who deprives another of these gifts, or restrains him in the enjoyment of them, except such deprivation or restraint is sanctioned by divine authority, is guilty of an act of injustice to the individual, and of a sin against God.

III. Every man originally has authority from God to deprive another of these gifts, or to restrain him in the enjoyment of them in the following cases, and in those only :

1st, When in so doing he acts according to the express command of God.

2dly, When he proceeds in such deprivation and restraint so far, and so far only, as is necessary for the defence of
of

of the gifts of God to himself, or in defence of the gifts of God to those whom he is bound by natural ties to protect, or those by whom his aid is solicited or deemed acceptable, against attacks unauthorised by God.

3dly, When he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

IV. Every man sins against God who does not act in such a manner with respect to the use, defence, and disposal, of his rights, which have been established in the preceding propositions, as he is of opinion will, on the whole, fulfil most effectually the purposes of his being.

If these propositions shall be satisfactorily established, they will be found to settle on solid and determinate grounds the obligations of justice in all its branches; and to afford a clear insight into the distinguishing characteristics of those two leading divisions in moral science, which ethical writers have usually styled perfect and imperfect rights.

CHAP. II.

THE FIRST AND SECOND PROPOSITIONS PROVED.

THE first proposition to be proved is, that "every man has originally a right, by the gift of God, to the unrestrained enjoyment of life and personal freedom; and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence."

By the terms personal freedom, I must always be understood to mean freedom from personal injury as well as from personal restraint.

By a right, I mean authority from God for the enjoyment of any particular thing, or for the performance of any particular action; that is to say, such authority as excludes the right of interference on the part of other men.—This explanation is subjoined for the following

ing reason : A person may displease God, and therefore commit a sin, in resolving to retain to himself the enjoyment of a particular thing, or to perform a particular action. Yet, at the same time, God may have constituted him the judge, under the tie of future responsibility for his determination, whether he will retain the thing or not? whether he will perform the action or not? In that case, however wrongly he may determine, no other person is entitled to interpose and constrain him to act contrary to his own choice. So that, as far as men are concerned, he has authority from God, that is to say, *a right* to retain the thing, or to perform the action, if he thinks proper. Thus for example, a person is desired to lend a sum of money to a deserving acquaintance who is in some temporary distress. He could do it with perfect ease and convenience; but he refuses. He is then requested to remain for a short time in the neighbourhood of the other party, for the purpose of aiding the latter with his countenance and advice. This request too he could grant with equal ease to himself, and advantage to the distressed man; but he immediately sets out on a long and unnecessary journey. Now

we cannot doubt that his conduct was in each instance highly displeasing and sinful in the sight of God. Yet as God had constituted him, and not any other person, the judge how he should employ his property and his time, no other person could justly attempt to constrain him to furnish the loan, or to remain in the neighbourhood ; that is to say, he had authority from God, or a right, to withhold his money, and to take the journey.

I shall also occasionally use the term right, after the example of others who have treated on similar subjects, to signify what in strict propriety is the object of a right ; as when it is said that life is one of the rights of man.

Under the expression natural rights, those rights which every individual possesses independently of the institutions of civil society will hereafter be comprehended.

That duty which consists in abstaining from infringing the actual rights of others, I shall denote by the term Justice.

Independently

Independently of any social engagement with others of the human species, every man finds himself possessed of existence, and of various bodily powers and mental faculties. As he cannot but discover the impossibility of his having been the author of his own existence and endowments, he must become convinced, on very slight reflection, that these blessings are the gifts of a gracious Being, to whose power he can affix no limit. He may therefore be assured that he has a right to the undisturbed enjoyment of them as long as it shall seem meet to God who bestowed them. As the wisdom apparent in the visible constitution of nature forbids him to think that the Deity would exert his power in vain, and lavish his bounty without having an adequate end in view, he may reasonably conclude that whatever has been conferred on himself has been conferred for important purposes. When he casts his eyes around on the rest of his species, he perceives that every individual is placed in the same general situation with himself and with each other ; namely, that each is possessed of life and various powers of body and mind, manifestly the gifts of the Supreme Being, and no less manifestly bestowed for purposes

poses of importance. The same reasoning therefore may be applied, and evidently ought to be applied, in favour of their rights as in favour of his own; and, if he applies it, he must discover it to be his duty not to incur the guilt of disobedience in the eyes of an Almighty Benefactor, and the punishment attending his displeasure, by an uncommisioned encroachment on his gifts to others; he must know that he has no authority to interrupt any of his fellow-creatures in accomplishing those purposes, whatever they may be, for which the common Maker of all called them into being.

He discovers, further, that he is in danger of speedily losing all these gifts, unless he takes proper measures for their preservation. The natural want of food, and the presence of fruits capable of supplying it, afford him sufficient grounds for concluding that these fruits were formed for the support of his life, and that he has a right to apply them to the use for which they were evidently intended by the will of God. And in general, perceiving how admirably different parts of the inanimate creation (which, being incapable of sensation, must

must be incapable of injury) are adapted to obviate the different evils to which he finds himself exposed, and to answer the various purposes which the natural wish for accommodation suggests, he may very reasonably infer that God designed them for the use of man; and may take in consequence whatever he finds necessary, whether it be for food, for raiment, for shelter, or defence. He observes too that the rest of mankind have the same wants with himself, and of course the same title to the objects by which they are to be removed. From these reflections he may justly determine, that the fruit which any individual has plucked from the bough, and the tree which he has felled in the forest, are especial gifts of God to that individual; and consequently that neither has he himself any more right to interrupt another, nor another to interrupt him, in the quiet enjoyment of these or any similar gifts, than either of them would have to disturb the other in the possession of life or freedom^a.

I have

^a If the foregoing observations do not prove (besides their professed object) that reason might convince mankind not only of the existence and superintending care of the Deity, but ultimately of the certainty of future rewards.

I have said that a man in a state of nature *might* arrive at a knowledge of his duty by the foregoing train of reasoning. Whether he *would* thus attain the whole of that knowledge, whether all these several arguments and conclusions (though universally within the reach of his faculties, and many of them extremely obvious) would in reality suggest themselves to his mind, is a point not materially connected with the present inquiry. The object of our investigation is not to discover what principles he would be likely to adopt, but what principles he ought to adopt. An acquaintance with the former might shew what his conduct probably would be ; a knowledge of the latter is the indispensable requisite to enable us to point out what it ought to be.— However he may permit prejudice and passion to warp his opinions and bias his conduct, yet neither can his supineness nor his violence alter the essential difference between right and wrong. To display this difference, to develop the rules of human duty, and place them on

wards and punishments, I must be understood for the present to take those points for granted ; as I fully agree with Mr. Paley that such a conviction is the only adequate ground of moral obligation.

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their true foundations, is the proper and the only business of the moralist.

- The first proposition being established, it will follow, as it is expressed in the second, that " he who deprives another of any of the above-mentioned gifts, or restrains him in the enjoyment of them, is guilty, except such deprivation or restraint is sanctioned by divine authority, of an act of injustice to the individual, and of a sin against God."

We have seen that the natural title of each individual to the quiet enjoyment of life, of personal freedom, and of such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence, is clear, and full, resting on the will of God.— A title cannot be set aside, except by authority equal or superior to that by which it was established. He, therefore, who claims a right forcibly to deprive his neighbour of any of the gifts which God has bestowed upon him, or to restrain him in the use of them, is bound to produce at least as strong and as authentic testimony of its being the will of God that the deprivation should take place, or the
restraint

restraint be imposed, as the other can that it should not. And if he presumes, without the production of such testimony, forcibly to interfere with them, he is not only guilty of injustice to the individual, but he acts likewise in direct defiance of that Being by whom the gifts were bestowed.

No plea therefore can justify a forcible interference with the gifts of God to another except manifest authority from God himself.

It remains to be considered in what cases such authority can be proved.

C H A P. III.

THE THIRD PROPOSITION PROVED.

IN establishing the truth of the preceding propositions, it has been shewn that every man has divine authority for the quiet enjoyment of the gifts which God has bestowed on him; in other words, that these gifts are the actual and exclusive rights of the possessor. In the present chapter it will be proved that in certain cases one man has divine authority, that is to say, a right, to restrain another in the enjoyment of these gifts, or even to deprive him of them. We should, however, conclude too hastily were we to infer that rights can ever be opposed to, or clash with, each other. The seeming contradiction is easy to be obviated. The gifts of God continue to be rights of the possessor so long only as it is the Divine will that he should enjoy them. Whenever in consequence of express directions from the original donor, or through the conduct of the possessor, another man has

divine

divine authority forcibly to interfere with them, they immediately cease to be rights of the possessor; and he may consequently be deprived of them, or be restrained in the use of them, without a breach of justice.

The first branch of the third proposition declares, that "every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when in so doing he acts according to the express command of God."

It is not necessary to enlarge on a position, the truth of which no man will dispute. The reality of such a command is the only point which can ever be questioned: and we may safely determine that no claim to inspiration is to be admitted, unless it be supported by the evidence of supernatural powers. For these are the only credentials by which the inspired messenger of God can be distinguished from the impostor; and they are the credentials by which the mission of those who have been charged with especial commands from above has in all ages been authenticated.

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The second branch of the proposition affirms, that “ every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when he proceeds in such deprivation or restraint so far, and so far only, as is necessary for the defence of the gifts of God to himself, or in defence of the gifts of God to those whom he is bound by natural ties to protect, or to those by whom his aid is solicited, or deemed acceptable, against attacks unauthorised by God.”

It has been shewn, without any reference having hitherto been made to the holy Scriptures, that all men are naturally possessed of certain rights ; and further, that an attack on the rights of another would be a sin against God, and an act of injustice to the sufferer.

This will be confessed. But perhaps it may be alleged, that these considerations alone do not prove our actual right of opposing by force any such attack ; that restraining the freedom, and much more endangering the life of another, though an aggressor, may be a line of conduct equally unauthorised with his
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own; that, supposing this to be the case, his guilt will be no justification of ours; that we may have no more right to kill an assassin than we have to destroy an infectious person, who might prove equally fatal to us; that although we must lament the approach of either as a severe misfortune, justice may, nevertheless, require that we should patiently submit the event to God, and leave to him the punishment of the offender, and the vindication of his own authority.

This fundamental objection to the right of self-defence is not to be obviated merely by urging that the destruction of the human race would be the ultimate consequence of admitting it. We are not allowed to oppose our ideas of future consequences to the direct authority of God. It has been proved that every man has originally that authority for the quiet enjoyment of the gifts bestowed upon him; and we must produce authority equally direct before we presume forcibly to interfere with them.

In reply then it may be observed, that to make the case of the infectious person parallel

parallel to that of the assassin, the former ought to have been represented as wilfully attempting to injure our health; otherwise he cannot be said to make an attack on the gifts which God has conferred on another. Of course the instance alleged can throw no light on the question, whether a person making such an attack may justly be resisted by force. A proof however of the irrelevance of a particular example does not invalidate the principle which it was intended to illustrate. The subsequent remarks, it is apprehended, afford a direct answer to the doubts expressed in the objection, and supply the proof which is required.

It has been shewn that the various bodily and mental powers possessed by each individual are the gifts of God; and further, that they are all bestowed for important purposes. Now among these powers are some which the possessor may have clearly perceived to be calculated for the defence and preservation of the rest. He has already had sufficient grounds to conclude that the Almighty wills him to protect himself, by the use of such of the gifts conferred upon him as are applicable

to the end in view, from the injurious effects of hunger, of thirst, and of inclement seasons. It is obvious, that in consequence of finding himself endowed by his Maker with powers capable of repelling injuries of other kinds, and impressed with an instinctive aversion to every sort of pain, he has equally substantial grounds for concluding himself authorised to resist injuries in general, by the use of such apposite means of defence as are bestowed on him. In other words, he may conclude, that for important purposes he is invested with a right, subject to such limitations as the original donor shall have already annexed, or shall hereafter, at any time, think fit to impose, to employ the powers of which he is possessed in defending himself against every kind of injury ; whether it be likely to arise from famine or from nakedness, from the violence of a savage animal, or from the unwarranted attacks of a savage of his own species. And since he can in no case defend the divine gifts committed to his charge, without depriving the aggressor of some of his natural powers, or restraining him in the use of them ; the arguments, which justify him in defending himself against an unauthorised attack, evidently justify

such deprivation or restraint, as far as may be necessary for his defence. 2.21

He, therefore, who, by invading the rights of another, has met with resistance, and has thereby lost any of the gifts conferred upon him, his property, his health, his limbs, or his life, must impute the loss wholly to himself. He runs upon a weapon pointed against him by the hand of God ; and the detriment which he receives is to be viewed in the same light as if it had been incurred by means of any other incident, which, by God's appointment, is attended with painful or destructive consequences.

To the preceding observations some important inferences may be subjoined.

First : The reasons, which prove that men are authorised by the will of God to resist an assailant, apply equally to the cases of open violence, and of secret fraud. Whether the aggressor be an avowed enemy, or a pretended friend ; whether he attempt in the face of day to assassinate his neighbour, or by stealth to mingle poison with his food ; the latter

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equally sustains an invasion of his rights, and is equally entitled to repel it by force.

Secondly: The same reasons, which prove that men are authorised by the will of God to defend their rights when actually attacked, equally prove them to be authorised, when they are sufficiently assured that an attack is intended by another, to lay such previous restraints on him as are necessary to prevent it; and to continue them so long as that necessity subsists.

Thirdly: The same reasons likewise justify men in taking all necessary methods to compel the restitution of the freedom, or the property of which they had been unjustly deprived; such methods being only a continuation of the resistance which was made, or an exertion of such as might have been made to the original attack. And they equally justify the force necessary for obtaining what is analogous to restitution, an equitable indemnification for such rights as cannot be restored.

Fourthly: They apply equally to the defence and recovery of all the actual rights of men, whether originally received from God,

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or obtained by their own exertions, or (as it will hereafter be shewn that rights may be obtained), by the assistance and consent of others.

Lastly : They do not authorise any manner of resistance and force beyond what is necessary to secure men from the effects of the injustice offered to them, or impending over them.

It remains to be shewn ^aunder what circumstances an individual may be justified by the light of nature in using force against another, for the purpose of giving assistance to a third person attacked by the latter.

^a They, who maintain the existence of a *moral sense*, will rank, among its suggestions, the desire of assisting a fellow-creature in distress ; and will consider *that desire* as a complete proof that a man has in *all* cases a natural right, by the will of God, to interpose by force in defence of the injured. However difficult it may be for my reader, whose benevolence is enlarged by revelation, to decline giving immediate assent to this argument ; yet he will reflect, that no stress can be laid upon it, until the existence and authoritative influence of a moral sense, understood according to the acceptation of those ethical writers who adopt that standard of morality, be incontestably established.

From our former conclusions it is evident that he cannot be justified in thus interfering in behalf of any one, whom he has good reason to think may be the aggressor; nor in any case in interfering further than is necessary to secure the rights of himself and of those whom he protects.

Under these limitations he may interfere ;

First : When the defence of the injured party clearly appears from the ties of nature to be committed to his vigilance and exertions. Under those circumstances no further indication of the will of Providence is wanting. Such is the situation of a parent with respect to his young children.

Secondly : When his aid is solicited or deemed acceptable by the party aggrieved.

It has been shewn that the latter has a right to impose the necessary restraints on the assailant. The arguments by which this right has been established equally vindicate him in employing the assistance of a fellow-creature and that of an ordinary weapon. If the person,
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whose interference he solicits, assents to his desire, the powers of defence belonging to the assailant, or such of them as are necessary to be exerted, are, in fact, lent to the injured party for the purpose in view ; so far they become for a time his, and as such may be employed by him. For as every man has a natural ability to transfer to others the use or the possession of the divine gifts which he enjoys, (the use of those gifts received immediately from God, as his bodily and mental powers ; and the possession of those acquired, consistently with the will of God, by means of the former, as his food, clothing, and other articles of property,) and also to accept a similar transfer from others ; so he may conclude himself authorised to avail himself of this ability, whenever it can be done without an infringement of the rights of another. In the present case no infringement can be alledged ; the assailant having previously forfeited, by his aggression, his right to the use and enjoyment of his natural powers, so far as he designed to exert them to the injury of the party attacked. The latter, therefore, has a right to apply for assistance, and to avail himself of it, if granted ; and

the person to whom application is made has a right to comply with the request.

If the latter should be satisfied that his interference is actually desired by the injured party, it is obviously a matter of indifference, whether the means were direct or circuitous by which the desire was communicated to him; whether it was made known by express declaration, or was collected from circumstances which sufficiently implied it.

Thirdly: When his own security is immediately connected with that of the person whom he assists; as if he is himself one of a company attacked by robbers. For the case then becomes self-defence.

Fourthly: When his own security is eventually concerned in repressing invasions of the rights of another; as when the aggressors who are now attacking one of his neighbours, will in all likelihood be stimulated and emboldened by success, if permitted to be successful, to attack himself. And this ground would almost always be sufficient to justify him in giving
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immediate and unsolicited assistance to a person in distress; even to one who, in consequence of being stunned by a blow, or of any other circumstance, should be incapable either of asking aid, or of signifying that it would be acceptable. With respect indeed to persons in such a situation as this, he might reasonably conclude that Providence, which wills the rights of a helpless child to be protected by its parent, wills their rights to be sustained by every one who has power and opportunity to defend them: and from that consideration alone might deem himself authorised to obey the natural impulse of benevolence. However, the safety of his own rights essentially depends on the general repression of that violence, which he may reasonably expect will, on any favourable occasion, be directed against himself, if permitted to trample on the rights of those around him.

From the preceding observations it is likewise evident that any man is justified in giving assistance to another against an assailant, even though the person whom he succours should, from private pique, from confidence in his own prowess, or from other motives, object to
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any interference; provided that such a step appears to him requisite for the defence or recovery of his own rights. He is at all times authorised to protect himself from injuries, either offered or meditated; and he is not deprived of this right by finding the aggressor engaged in outrages against others; nor by the clamour of the party attacked, who has no plea for obstructing him in taking such measures as are necessary for his own defence against injustice.

The same line of argument will also prove that he is equally justified in a similar interference for the defence or recovery of the rights of those whom he is bound to protect; and of those by whom his aid is solicited or deemed acceptable.

In the last branch of the third proposition it is asserted, that every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

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This point has already been settled. For I have recently had occasion to shew that every man has a right to transfer to another the use, or the possession, according to the nature of the case, of any of the gifts of God which he enjoys, and to accept a similar transfer, whenever such a transaction can take place without a breach of justice towards others; and that whatever is thus transferred^b becomes one of the actual rights of the party accepting it. And it has also been shewn in the fourth inference deduced from the first branch of this proposition, that the use of force is no less justifiable for the defence and recovery of those rights which a man has obtained by the assistance and consent of others, than of those which he has received immediately from God, or acquired by his own exclusive exertions^c.

^b A subsequent chapter on engagements will point out the circumstances which are requisite to give validity to the transfer of a right by promise.

^c The cases and the manner in which the rights, established in the present and the preceding chapter, ought to be exercised, will be investigated under the remaining proposition.

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In the proposition which we are considering it was affirmed, that no man has a right, in any case not included within the limits of those which have been discussed, to deprive another of the gifts of God, or to restrain him in the use of them. The truth of the assertion may easily be established. For in the proof of the first and second propositions it was shewn, that every one has divine authority for the unmolested enjoyment and exercise of the gifts which he has received, provided that the Almighty does not expressly resume them, and that they are not so employed as to infringe the rights of others. These are the only limitations *immediately* proceeding from the will of God to which the natural rights of men are subject. A third limitation, though sanctioned by divine permission, is the immediate consequence of the act of man; and takes place when any of God's gifts are voluntarily relinquished or abridged, as to the actual use of them, by the possessor. The rights of deprivation and restraint corresponding to the several limitations occupy the three branches of the third proposition. And as no limitations except those which have been enumerated are deducible from the first and second propositions,

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tions, or compatible with them, the third proposition must necessarily comprehend all the cases in which a forcible interference with the gifts bestowed on another has the sanction of divine authority.

These remarks afford a sufficient answer to any one, who maintains that he is authorised thus to interfere in cases not stated nor virtually included in the present chapter. It may not however be useless more particularly to consider what may be alleged in reply to his claim, should he endeavour to support it on any grounds of expediency; that being the principle on which such a claim, if made, will probably be rested. On that supposition he must contend, that the right which he asserts is a branch of his right,

1. To promote the happiness of himself:

2. Or the happiness of the individual against whom his force is directed:

3. Or the happiness of some other individual:

4. Or

4. Or general happiness; in other words, general expediency.

On the first head it will be sufficient to observe, that a claim set up by an uninspired individual to invade the gifts of God to another, whenever he conceives that such a step will conduce to his own happiness, is a claim too palpably and immoderately extravagant to deserve much serious notice; it is an insult to him who conferred those gifts; and is resisted by the whole train of reasoning which has been employed to shew that all men possess the same natural rights, and that the rights of every man are at his own disposal. It is a claim which every one may assert, which no one can prove, and which never can be admitted until it be established by proofs the most decisive^d.

If, in the second place, the aggressor rest his claim on the ground of contributing to the

^d Though individuals have seldom the effrontery to allege this plea, yet a plea substantially the same is not unfrequently asserted on the part of a nation, under the denomination of the right of promoting the national interest, to vindicate oppressive proceedings towards foreign powers.

good of the individual, whose rights he is about to invade, can he shew that the Almighty has constituted him the judge of his neighbour's happiness? On the contrary, is it not the fact that God has originally left every man to determine what line of conduct will most effectually promote his own welfare? Hath it not been shewn, that as every man is to be rewarded or punished for the use he shall have made of the gifts with which God has entrusted him, so he has divine authority for employing them in any manner which he shall think most conducive to his happiness, provided that he does not thereby infringe the rights of any of his fellow-creatures; and for retaining or relinquishing them solely at his own option? It follows then, that, even if the assailant could prove by incontestable evidence that the happiness of the person whom he attacks would be in the highest degree promoted by the loss of the rights in question, such a proof would contribute nothing to his own vindication. What though we admit it to be on this account the duty of the other in the sight of God to resign them? It is a duty, for the discharge of which he is answerable only to his God. For it is the possessor of these rights,

rights, and not the invader of them, whom God has appointed to judge in what cases it is more advisable that they should be retained, and when it is better that they should be relinquished.

Thirdly : If the aggressor maintain his claim on the ground of promoting the happiness, not of the person attacked, but of some other individual, or individuals, an application of the preceding observations will shew that a presumption, or a conviction, or what their happiness requires, will not in any degree justify his invasion of the rights of another. If he has no authority to impose restraints, in order that he may promote the happiness of the person restrained, a claim to impose them for the benefit of others must be, if possible, more unreasonable.

The fourth plea, that of general expediency, has been, I apprehend, completely refuted in the former part of this treatise, and may be dismissed without further discussion.

It may not be improper in this place to inquire whether restraints, the original imposition,

tion of which was unjust, may in any cases be continued consistently with justice.

The principles laid down in the present chapter evidently point out the following rule. Restraints originally unjust may be continued in all cases which would justify the present imposition of them; and in no other.

Thus, if I had unjustly taken a sword from another man, I should be authorised to retain it so long as I should have sufficient reason to believe that, on receiving it, he would revenge himself by plunging it in my breast. When his claims were satisfied, and no future injury was meditated against him, he would not be entitled to deprive me of the gifts which God had conferred upon me; and I should be justified in the previous use of all necessary force to secure myself from the impending danger.

I will subjoin another instance, though drawn from civil society, a subject which has not yet been investigated, as it relates to a topic much agitated at present. The West-Indian negroes, though in general reduced to slavery

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by unjust means, may be detained in that state as long as there is sufficient reason to believe that, if emancipated, they would massacre the planters, or ravage the islands.

In all cases however the foregoing rule presupposes, that it is full and impartial deliberation which has convinced us that the continuance of the restraint in question is necessary to the defence of the rights of ourselves, or of those under our protection: for, otherwise, we should not be authorised now to impose it.

If, for example, methods can be devised, and I see no reason why they may not, which may enable us to emancipate the children of the negroes without exposing our colonies to the above-mentioned injuries, we are bound in justice to adopt them. Nor will the plea of defending the rights of ourselves or others authorise us to continue the slavery either of children or parents, longer than a *serious and candid inquiry (repeated, if necessary, from time to time, and at no long intervals)* convince us that no such means are to be found. Nor will it justify us in refraining from immediately
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adopting all the preliminary measures in our power, which may pave the way for their emancipation, and enable them to be entrusted as speedily as possible with the liberty of which they have been deprived.

It remains to be shewn how far the principles established in this and the preceding chapter are applicable to the case of those, who, from whatever cause, labour under mental incapacity.

It has been observed that the various bodily and mental powers, of which each individual finds himself possessed, are gifts of God; and that they are bestowed on him for important purposes, which he is to accomplish by his own endeavours. Hence it was collected, that he had authority from God for the free and undisturbed enjoyment, use, and disposal of them, while he should refrain from infringing the rights of others. But although this inference be just with respect to the man who has physical ability to understand and fulfil the general ends of his being, the proper conclusion may be very different with regard to him who has not. The Almighty has con-

ferred on a person in the latter situation certain gifts for important purposes ; but at the same time permits the existence of an obstacle, which completely disables him from discerning and accomplishing those purposes at present. Under these circumstances, unlimited freedom on the part of the possessor in the disposal or in the use of his natural powers cannot be presumed to be the will of the Supreme Being : for in the first place such freedom would be attended with perpetual danger to the rights of others ; and for the sake of defending those rights from attacks, the imposition of restraints upon the party in question would frequently be just on the principles already established, in cases when it could not have been vindicated towards those, who were able previously to answer for their actions. But further, reason may teach us that the infant, the idiot, the lunatic, together with those who are incidentally and for a time disordered in their understandings by disease, by terror, by intoxication, or by any other cause (for our argument equally applies to all, whose mental faculties are actually incomplete or deranged, from whatever source those circumstances may have arisen, and whether they have proceeded from
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the fault of the persons in question or not), are to be considered as having received their endowments for the same general ends, for which similar endowments are bestowed on their fellow-creatures; and that God wills those gifts, which through the present incapacity of the possessor cannot be properly used, to be preserved ready to be applied to the purposes for which they appear originally and generally designed. We may therefore conclude, that whenever any one is by nature, or through any incidental circumstance, physically incapable of discerning the ends for which the divine gifts were bestowed on him, and of applying them to those ends (and such is the situation of the persons enumerated above), he is not authorised by a wise Creator to waste, to throw away, to injure, or to destroy them. On the contrary, we may infer the divine will to be, that these gifts should be superintended and preserved by such persons as through relationship or situation are most proper to discharge the trust; that whenever the faculties of the possessor shall by the bounty of Providence be matured or restored, he may be in a fit state to avail himself of the change, and to fulfil the purposes

for which it was permitted to take place. On these superintendants another no less obvious duty devolves, that of diligently endeavouring by all seasonable methods to draw forth the latent powers, and to re-establish the disordered faculties of those, whom Providence has committed to their care. And since it may be presumed that when God lays an obligation upon his creatures, which cannot be discharged but by the use of certain means, he at the same time gives his sanction to the use of them; we may conclude, that whenever our duty with respect to persons, whose faculties are imperfect or deranged, cannot be fulfilled without resorting to force, the use of force, temperately and faithfully applied to the end in view, is sanctioned by divine authority.

Such individuals then as labour under a physical incapacity of understanding and accomplishing the apparent purposes of their being, have a right to the enjoyment and moderate use of the divine gifts, as far as they are properly capable of either; but not to the uncontrolled alienation, or to the lavish and destructive employment of them. And a right

exists in others, in those namely whom Nature points out as most fit to exercise it, of preventing the former by all requisite means from injuring, or destroying, or improperly alienating those gifts; and also of enforcing such restraints, as appear expedient for the purpose of rendering the unfortunate men capable of answering the great ends of human existence.

C H A P. IV.

THE FOURTH PROPOSITION PROVED.

THE object of the preceding propositions was to ascertain the extent and the limits of human rights. The course of our inquiry led us to an investigation of the crimes which consist in violating those rights; and are therefore not only sins against God, but likewise acts of injustice towards men. It must be obvious however to a person of a considerate mind, even though he were uninstructed by Revelation, that there are crimes of another description. For he must discern, that although he should carefully abstain from infringing his neighbour's rights, he will assuredly incur the displeasure of his Creator, if he does not also make a proper use of those bestowed upon himself. He cannot conceive himself at liberty to employ them in any manner which passion, caprice, or inclination may suggest, with the single exception of not injuring his fellow-creatures; for, as we have already observed,

served, the wisdom and design displayed in the constitution of himself, and of every thing around him, must teach him that all his bodily and mental powers were bestowed for important purposes. Those purposes therefore, under such clear indications of the intention of Providence, he must consider it to be the special business of his life to fulfil; and he must necessarily look on the rights which he has received from the divine bounty as the destined instruments by which they are to be accomplished. Hence he cannot fail, on reflection, to discover and acknowledge the truth of the general rule delivered in the fourth proposition; namely, that "every man sins against God, who does not act in such a manner with respect to the use, defence, and disposal of the rights which have been established in the preceding propositions, as he is of opinion will, on the whole, fulfil most effectually the purposes of his being."

This proposition applies to three distinct branches of human conduct. It furnishes each individual with a rule to be observed with regard to the use of his rights, to their defence, and to their disposal. On each of
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these heads it may be proper to bestow distinct consideration. But as the conduct of every man in the particulars which I have enumerated is to be decided by a reference to the various purposes which he was created to fulfil; and as it highly concerns him to avoid, whenever it can be avoided, the necessity of forming a hasty determination in the moment of action, since a determination thus formed lies under a peculiar risk of being erroneous; he ought previously to impress upon his mind adequate ideas of the nature of those purposes, and to appreciate, as far as may be, their relative importance. It may be useful therefore to endeavour to facilitate such researches, by pointing out in a few words some of the principal ends of our existence discoverable by natural reason.

The primary end of the being of every man is obviously to promote and secure his own final happiness; an object which he can attain by no other method than by a zealous and faithful obedience to the will of his Maker. He must therefore see it to be incumbent on him diligently to perform such actions, to acquire such habits, to cherish and improve such dispositions,

tions, as he has reason to believe will be acceptable to God. Every thing of an opposite description it is no less evidently his duty scrupulously to avoid.

There are subordinate purposes conducive however to the principal one already mentioned, which not only his reason, but the very frame and constitution of his nature, shew that he was formed to answer. These are, promoting the final welfare of his fellow-creatures, and their present happiness as well as his own.

In his attention to the general happiness of others, he will find different individuals pointed out to him by a variety of reasonable claims as objects of different degrees of his kindness and solicitude. In proportion as particular persons are more closely connected with him by the ties of kindred and of affection; in proportion as they have heretofore shewn kindness to himself; in proportion as they stand more in need of the assistance which it is in his power to bestow; in proportion to the force of any or of all of these circumstances, and of others which might be enumerated,

rated, he will find himself under a more pressing obligation to study their present and future welfare. Though he is not answerable to men if he refuses to confer upon them those benefits, which he has a discretionary right to bestow or to withhold, he is accountable for that refusal to his God. For every opportunity of doing good to one of his fellow-creatures without being obliged to omit some other duty of equal or of superior importance, is an opportunity afforded him of serving his Maker, and thus promoting his own final happiness; and he is bound never to neglect a fit occasion of manifesting his gratitude to heaven for the numerous blessings spontaneously bestowed upon himself by the divine goodness, or of promoting, by a conscientious discharge of his duty, the primary end of his existence.

We will now pay separate attention to the three branches of human conduct to which the fourth proposition relates.

First : The first is the duty of man with respect to the use of his rights. The use of rights, as distinguished from the defence and disposal

disposal of them, refers principally to food, clothing, exercise, amusement, and the active employments of the bodily and mental powers. To these several particulars one general reflection may be applied, that each of them has a relation, more or less direct, to our final happiness as well as to our present comfort; and that each is productive of its peculiar moral trials. Our conduct therefore, with respect to each of them, will most effectually promote the great purposes of our being, if we strictly attend in the case of each of them to the subordinate designs which they are respectively intended to answer; and carefully guard against the temptations, by which, in the use of them respectively, we are liable to be ensnared.

Food, clothing, and exercise, are obviously designed for the preservation of our bodily and mental powers in a state of vigour and activity. The dangers attending an improper use of the two former are sufficiently indicated by the example of those who destroy their health, debase their reason, and aggravate their passions by the intemperate indulgence of fastidious and brutish appetites; and
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by the more numerous instances of others, who enervate their minds, contract a distaste and aversion to laudable pursuits, and become a prey to the daily suggestions of vanity, caprice, pride, and envy, through solicitude concerning exterior ornaments.

Exercise is rarely misapplied except when it may be regarded as an amusement: as when persons whom their property and their situation in the world enable to become extensively beneficial by a right application of their talents, addict themselves immoderately to the sports of the field, and lead a life not more useful, probably less creditable, than that of a huntsman or a game-keeper. The neglect of exercise, not uncommon with studious men, and with others who cease to regard it as an amusement, naturally tends to enfeeble the body and mind, to depress the prime of life with the languor and listlessness of premature old age; and to preclude old age itself from a large portion of that activity, usefulness, and satisfaction, with which it might otherwise have been crowned.

The natural purpose of amusements is to
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unbend the mind ; to recruit the languid and wearied faculties for future exertions ; and, by diffusing a placid cheerfulness over the spirits, to raise and improve sentiments of benevolence to man, and of gratitude to God. The advantages of them will be best secured, and the corresponding dangers avoided, by taking care that our amusements be such alone as are perfectly innocent in themselves, of a virtuous tendency, or at all events not likely to lead us to any criminal action or idle habit ; that even these be not permitted to occupy too considerable a share of our time, nor those portions of it which could most commodiously be allotted to objects of higher concern ; that they be pursued only for their proper end, and estimated at no more than their proper value.

The active employment of our bodily and mental powers will appear in the highest degree important, if we place before our eyes the comfortless and vicious lives of those whose time is not occupied in meritorious pursuits ; and if we reflect on the daily and ample scope which it affords for confirming, extending, and manifesting our obedience to
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God, and our zeal for the happiness of our fellow-creatures. The exertion of our reasoning faculties is calculated to enable us to attain the knowledge of the attributes of God and of human duty; to establish ourselves and others in the practice of virtue; to acquire such an insight into the nature and properties of different works of the creation, even beyond the limits of the earth, as will not only impress on our minds the fullest conviction of the power, wisdom, and goodness of the supreme author of the universe, but will also be of the most essential service and comfort to men in the concerns and incidents of common life. And in general, our faculties and endowments of every kind are best employed in promoting the influence of reason and religion, in the encouragement of science, in preventing or redressing injuries, in relieving distress, in diligence in our several honest occupations; and ought particularly to be exerted for the benefit of those, who, by the ties of nature or by other circumstances, are best entitled to our attention. Together with all the vices which are opposed to the several duties here enumerated, we are studiously to guard against those prejudices and failings to which our respective

spective professions may more especially incline us; as well as against arrogance on account of the possessions or attainments bestowed on us, and contempt of others who may in any respect appear to be less favoured by Providence than ourselves.

There are few pursuits compatible with justice in which we are in greater danger of employing our bodily and mental powers in a reprehensible manner, than in those of which the acquisition of property is the object. It would be easy to illustrate this remark by instances which continually take place in civil society. In every transaction of buying and selling, whether on the large scale of commerce, or in the smaller kinds of bargain and traffic which occur daily in the intercourse of common life, each party is exposed to the temptation of availing himself of his neighbour's ignorance, or taking advantage of his necessities; the seller in particular of using improper methods to enhance the value of his goods; and the purchaser of obtaining possession of them, without being sufficiently assured of his ability to complete the payment in reasonable time, or even to complete it at all;

proceedings which it is not unusual with men to defend on the plea of *custom*; in other words, on the plea that multitudes act as unjustifiably as themselves.

But whenever an opportunity is opened to any man of acquiring, with his neighbour's consent, a power over any of the rights of the latter, whether as a purchase or as a gift; he is bound not merely to attend to every obligation of justice which may arise from the circumstances of the case, but steadily to bear in mind all the various purposes of his being, and to consider whether he shall more effectually promote them by acquiring or by declining the possession of the right in question. And, if the acquisition should appear the less likely to favour their accomplishment, it is his duty resolutely to withstand the offer, though it should hold forth prospects the most alluring to his inclinations and passions. If he accepts it, when he has reason to believe that by such acceptance he in any degree disqualifies the other from fulfilling, on the whole, the purposes of his being; though he does not violate any of the rights of the latter, and therefore is not answerable to him for the loss incurred by the
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the surrender, yet he commits a sin in the sight of God. For it is the will of God that every one of his creatures should accomplish the ends for which he was made: whoever, therefore, knowingly contributes to disable his incautious neighbour from fulfilling that will, is himself guilty of resisting it.

Secondly: The duty of men with respect to the defence of their rights is next to be considered. The general rule laid down in the fourth proposition ought to determine an individual, whose rights are attacked, whether he should resist or not; and also to guide him, if he should judge the former line of conduct incumbent upon him, with regard to the degree and mode of his resistance. The following remarks may perhaps assist him in forming a just decision.

It is the natural duty of every man to endeavour to preserve himself in such a state as may best enable him to fulfil the will of God; or, in other words, to answer those purposes for which his Maker called him into being. And since Almighty wisdom bestows no gift but for an end adequate to the value of that

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gift,

gift, there is in every case a presumption, antecedent to reasonings on either side of the question, that each right, of which an individual finds himself possessed by the bounty of Providence, is necessary to enable him fully to accomplish the purposes of his existence; and consequently that God wills him to retain it. He therefore sins against God if he slights this presumption, and forbears from resisting to the utmost of his power, by all requisite force, every invasion of his rights; unless he is convinced, by a full and impartial consideration of the benefits likely to result from his forbearance as well as from his resistance, that the former measure, adopted in a greater or in a less degree, will, upon the whole, conduce at least as much as the latter to the ends for which he was created. If his conclusion should be, that the whole, or the more important of these ends, will be most effectually promoted by a total or a partial forbearance, it is then no less his duty to forbear, than it would have been on the contrary supposition to resist with his utmost ability.

Whoever by self-defence, in a case wherein self-defence was a duty, has endangered or

lost his life, or other natural rights, is not chargeable with the guilt of disqualifying himself from fulfilling his Maker's purposes; the risk of such loss being inseparable from the resistance which, on the present supposition, God is deemed to enjoin.

But he who resists when his conscience requires him to abstain from the defence of his rights, though he is not guilty of injustice, and therefore is not answerable to the aggressor for the detriment which the latter may receive, is answerable for it to his Maker; and also for the injury which he himself may sustain in the contest.

The observations which have been made under this head obviously apply not only to the duty of men with respect to the defence of their rights in the moment of invasion, but likewise to their duty with respect to using force either for preserving them from meditated injury, or for obtaining the restitution of those which have been taken away, or indemnification for their loss.

The difficulty of deciding whether any or what forcible means ought to be employed for the defence or recovery of rights, attaches to cases where the different subordinate purposes of human existence seem to interfere with each other, and to require different lines of conduct. Where the principal purpose appears at stake there is no place for deliberation. Thus every man is bound, not only to have recourse to resistance at first, but to persevere in it to the last extremity, if an attempt be made to deprive him of the liberty of praying to or of praising God. For his own final happiness is the primary end of his being; and those are his primary duties which must form the basis of the intercourse between himself and his Maker. But a person engaged in an important litigation, considering in the first place the advantage which his children would derive from his success, and the small chance of his living to provide for them by other means; and afterwards weighing the probable expence of the contest, and the risk of being finally disappointed by the death or absence of witnesses, may find it no easy matter to determine whether it be his duty to persist in the

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the suit or to relinquish it. So likewise a clergyman, who discovers himself entitled to more ample tithes than he receives, may reasonably be in doubt, whether his obligation on the one hand to avoid all interruption of the harmony between himself and his flock (an interruption which so frequently results from the institution of tithes, as perhaps to furnish a decisive argument against the propriety of that mode of supporting the clergy), or his duty, on the other hand, to his successors and to his family, should determine him to abstain from, or to resort to, compulsory means of recovering his legal rights. Impartial attention to our general rule is the only method of settling these and similar doubts.

Thirdly: By the duty of men, with regard to the disposal of rights, I mean their duty with respect to voluntarily modifying, abridging, or relinquishing, their rights, ^a when no force is exerted or known to be meditated against them. A faithful application of the

^a This limiting clause is inserted, as the duty of men with respect to the surrender of rights actually attacked or endangered has been considered under the preceding head.

rule stated in the fourth proposition will resolve all cases of this nature ; and many of the remarks which have already been made in the course of this chapter are so obviously transferable to the present subject, that I need not take up my reader's time by pointing them out particularly. I will therefore conclude with observing, that those rights, which no man can resign without endangering the accomplishment of the principal purpose of his being, cannot in any case be resigned without offending God ; and that all rights by which the possessor finds himself obstructed in fulfilling that purpose, ought without delay to be relinquished, however conducive they may appear to the subordinate ends of his existence. Thus no man can be justified in surrendering into other hands the direction of his religious creed and of his conscience ; nor for retaining an office conducive in many respects to his present happiness, and affording him frequent opportunities of promoting that of others, if he perceives his continuance in it to be irreconcilable with the discharge of his primary duties to God.

C H A P. V.

THE PRECEDING PROPOSITIONS SHEWN TO BE CON-
FIRMED BY THE SCRIPTURES.

THE principles which have been deduced in the three preceding chapters from the light of unassisted reason, will acquire, if they are shewn to be sanctioned by the scriptures, a degree of authority, without which they would comparatively deserve little attention. For although the sacred writings, leaving ample room for the exercise of conscientious deliberation on points of morality, do not enter into systematic details concerning the many subordinate branches of human duty; yet they so clearly discover both the grounds of moral obligation, and the fundamental outlines of moral practice, that no ethical writer who believes in their divine origin has any just reason to place confidence in the principles and rules of conduct which he proposes, until he has brought those principles and rules to the test of holy writ, and is satisfied that they accord throughout

throughout with the revealed will of God. I shall, therefore, briefly endeavour to prove that the several propositions which have been already stated, are sanctioned either by the unequivocal declarations, or by the general tenor of the scriptures, before I proceed to derive from them any further conclusions.

In the first place, the scriptures teach us, in concurrence with the first of those propositions, that existence, with every bodily power and mental faculty possessed by each individual, was bestowed upon him by the bountiful hand of God. They also declare in general terms, which convey the same natural rights to every individual, being addressed to the first parents of mankind as the representatives of the human race, that the earth, under which term its various productions are manifestly comprehended, was delivered unto man to be *subdued* by him; that is, to be employed for the relief of his wants, and the gratification of his reasonable desires. He was invested with an express right of applying the vegetable creation (a single exception being made, with the object of which he did not long continue to be conversant) to the purpose of his sustenance; and

and at a subsequent period he received similar authority over the whole animal ^a world, which had not originally been subjected to his unlimited dominion. This additional charter of human rights, flowing, like the former, from the spontaneous bounty of the great Lord of all creation, was plainly addressed to Noah and the other survivors of the deluge not merely as private individuals, but as the representatives

^a As animals are evidently susceptible of pain and injury, man, uninstructed by revelation, could not have had the least right to exercise any authority over them. To restrain them in the enjoyment, much more to deprive them of the possession, of those gifts which his and their Maker had seen it good to bestow upon them, would have been in every case, except in the defence of himself or of others against their attacks, an act of usurpation, and a sin against that Power, who, for wise ends known to himself, had called them into existence. This reasoning appears to be confirmed by the method of proceeding which the Almighty thought fit in two instances to adopt; namely, by his at first bestowing on men dominion over animals by an express and unequivocal declaration; and afterwards by his imparting to men a further power of using them as food, by a declaration no less clear and positive. For these circumstances seem pointedly to indicate, that, without such a revelation of the will of the Supreme Being, men would have had no right of sovereignty over other living creatures; and that their right in no case extended further than his special permission expressed.

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of their future descendants ; and was designed to convey the same rights to each of those descendants which it bestowed on the persons to whom it was originally made known.

Further; the scriptures have for their principal object the inculcation of this fundamental truth ; that every man is placed upon earth by his Maker to work out his salvation, under God's blessing, by his own actions.

And since they teach us that the reward or punishment of every man will be increased in proportion to the manner in which he employs each of the means of action of which he is possessed, they necessarily and incontestably imply that his conduct should be free, except in cases in which it is restrained by the authority of his Maker : in other words (as it was asserted in the second proposition), that he is guilty of a sin against God who deprives another of any of the gifts of God, or restrains him in the enjoyment of them, except he has authority from God for so doing : and that he is also guilty of an act of injustice to the person thus deprived or restrained,

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To proceed: the scriptures expressly assure us that the perfections of the Deity, more especially his power, his wisdom, and his goodness, are visible in his works, and are particularly conspicuous in the formation of man; that his gifts to man are all of them valuable and important, all calculated for specific purposes, and intended to be diligently employed. They continually inculcate on every individual, that it is his duty to use these gifts in such a manner as may best enable him to fulfil the ends for which he was made; namely, to promote and secure his own final welfare, together with the final welfare of others, and their present happiness as well as his own. Now as these are the principles on which the reasoning urged in the two preceding chapters in support of the third and fourth propositions is founded, it follows that those chapters have scriptural authority for their basis. For a proof that the particular conclusions which have been deduced in them are confirmed by the whole tenor of scripture, if my reader is well acquainted with his Bible, I will appeal to his own knowledge: if he is not, I refer myself to his future conviction, when better reasons than a desire to satisfy himself as to the proof

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proof in question shall have disposed him to a diligent study of those laws of God, according to which he ought to govern his whole conduct now, and must inevitably be judged hereafter.

I will dwell on this subject no longer than while I obviate the force of a question which may be asked, and which some men, I fear, would be glad to think unanswerable: "You have proved," it may, perhaps, be said, "that the great rules of human conduct contained in the scriptures are discoverable by the light of unassisted reason. Where then was the necessity for the Christian revelation?" The Christian revelation, I reply, was necessary, that those rules of life, which none but the wisest would have deduced for themselves, and even they but imperfectly, might be placed at once before the bulk of mankind, expressed in the plainest language, founded on the most undoubted authority, and recommended by the most persuasive example. It was necessary, for the purpose of inspiring men with gratitude to God, and of enforcing upon them the practice of the various duties of forbearance (a practice the most ungrateful

grateful to their natural passions), by convincing them of their fallen degraded state, and of their Maker's unspeakable condescension and kindness in the means of their recovery from it, by the death and sacrifice of Jesus Christ, and by the sanctifying aid of the Holy Spirit. And lastly, it was necessary, in order to fix on immovable foundations that corner-stone, on which the whole fabric of our reasoning has been built; the certainty of a future state of retribution, in which every individual will be rewarded or punished in exact proportion to his deeds.

C H A P. VI.

ON INDEMNIFICATION.

SEVERAL topics, which either have been cursorily noticed in the foregoing chapters, or are immediately deducible from the principles which have been maintained, may not improperly receive distinct consideration; as they involve very material points of moral duty, and it is therefore of importance that their true nature should be accurately understood. The subjects to which I allude are indemnification, punishment, slavery, property, and engagements.

By indemnification I mean the receiving of an equivalent for an injury sustained.

The right which an injured person has to indemnification, and the means by which it may justly be enforced, have already been shewn in the third chapter. The manner in which the claim is to be satisfied will appear from a review of the following cases:

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1st. Let us suppose the party aggrieved to have been injured in his property alone, and the aggressor to be possessed of property sufficient for the purpose of compensation. Under these circumstances the fit mode of retribution is obvious.

2dly. But if the aggressor is destitute of property, or unable, even by the surrender of his whole substance, to satisfy the just demand of the man whom he has injured, how is he to complete the equivalent? He must appropriate to the use of the latter such a portion of the other gifts which God has bestowed upon him, such a portion of his strength, or of his industry, or of his skill, as will answer the remaining claim. What he cannot pay with his property he must pay with his service.

In this case, although the injured person may compel the aggressor to perform the requisite service, yet he has not necessarily a right to oblige the innocent family of the latter to co-operate in it. The aggressor, as far as he is possessed of such a right, may be deprived of it by the other, since all his actual

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rights

rights are subject to the unsatisfied claim of the injured party.

3dly. Suppose the injured party to have incurred expense and loss of time in the defence of his rights, or in endeavours necessary for the recovery of them.

These are injuries brought upon him by the wilful act of the assailant; and the sufferer has consequently a right to be indemnified. The particulars are reducible to computation, and an equivalent in property, or in service, may be precisely ascertained. Of course the reasoning on the foregoing cases is applicable to this.

4thly. Suppose the party aggrieved to have undergone bodily pain or injury, or severe anxiety of mind, in consequence of the attack which he has sustained.

He had originally the same title to freedom from injury in these points as in his property; and consequently has the same right to indemnification in the one case as in the other: and indemnification in these, as in all instances,

stances, must be rendered in property or in service.

It is evident that in the case of unconnected individuals, where the person who had received the injury would judge for himself of the requisite compensation, as well as enforce the discharge of it, the exercise of this right would be pushed to unwarrantable lengths, and marked with caprice, violence, and outrage. It is equally evident that the computation of a fair equivalent, for the injuries now under consideration, would be a matter of no small difficulty even to an unprejudiced bystander. But these circumstances do not invalidate the right itself, however they may indicate the duty of caution in the exercise of it. A right does not cease to be so because it may be abused; nor because the demand which it authorises in particular instances may not easily be ascertained with precision. Yet the computer is not entirely without land-marks to direct him. He may discern this recompense to fall short of what may fairly be claimed, and that to exceed it. A basket of apples would be an inadequate compensation for the loss of a finger; and a herd of oxen

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might be more than an equivalent. He is to discover, as nearly as may be, the just medium between the two extremes; and he is answerable to his Maker for an impartial judgement.

Indemnification may be demanded for the injuries sustained by the family of the party aggrieved in consequence of the attack made upon him, as far as the aggressor must reasonably be supposed bound to have foreseen that they would, or probably might, take place; for so far they must be considered as intentional injuries. This reasoning applies with still greater force where they are known to have been intended.

In each of the preceding cases it is possible that the injury sustained may be so great, that all the existing rights of the aggressor, which, when transferred, would be valuable to the sufferer, may fall short of being a fair compensation for it. While circumstances continue in this state, the latter cannot be fully indemnified; but he retains a right to exact the remainder of the debt, whenever the assailant shall be enabled, by a change in his situation, to discharge it.

With respect to enforcing or waving the right to indemnification in any particular case or degree, the injured person is bound in the sight of God to adopt that line of conduct which he apprehends will, on the whole, most effectually forward the purposes of his being. And in forming his judgement on this point, the advantage of the aggressor, with respect to the purposes which he also was created to accomplish, ought to be no inconsiderable object.

C H A P. VII.

ON PUNISHMENT.

HE who has obtained, by restitution or indemnification, complete satisfaction for the injuries which he has suffered, has no further claim on the aggressor, except for security against future violence, when it is on good grounds supposed to be intended. He has the same claim upon any man whom he believes to meditate an invasion of his rights, although he may never have invaded them hitherto. And it has already been proved, that every man has authority from God previously to deprive another of the gifts conferred on him by providence, or to restrain him in the use of them, so far as is necessary for securing himself from the proposed attacks of the latter; in other words, that every man, who has sufficient reason to believe that another individual meditates an unjust attempt against him, has a right to inflict on that individual such punishment as is necessary to prevent him from prosecuting his design.

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In some cases security cannot be attained without inflicting such a punishment as absolutely deprives the aggressor of the power of committing the meditated outrage. In others (and these, fortunately for mankind, are the more numerous) the end may be sufficiently answered by measures less violent, which, in all probability, will deter the criminal from his purpose, though they do not proceed to the extent of disabling him from accomplishing it.

Since the right of punishment is merely a branch of the right of defence against an aggressor, it follows, from the positions which were established in the discussion of that right, that it may be exercised, if occasion requires, by any individual on behalf of another, against whom an unjust attack is commenced or meditated, whenever the assistance of the former is naturally due to the latter, or desired by him; and whenever the former apprehends that the defence of the latter is necessary for his own present or future security,

The justice of human punishments can originally be maintained on no other principles

than those on which it has been asserted in the present chapter. It has indeed been sometimes maintained on other grounds, which a very few words may shew to have been wholly unsubstantial and delusive.

To punish by way of inflicting vengeance for crimes is to usurp the prerogative of God.

The idea of inflicting punishment by way of indemnification, or in lieu of it, is too absurd to merit much attention. Punishment, as such, can never constitute indemnification; inflicted with this view, it must be nugatory, and would therefore be an unauthorised attack. It may, however, be imposed when it is necessary for the recovery of indemnification from an aggressor, who refuses the satisfaction which he owes, and which he is able to give.

Of all the erroneous notions respecting punishment, no one is so prevalent as the idea, that natural justice authorises the infliction of it on criminals for the purpose of deterring others from becoming so. The assertion of a right to punish on this ground is directly repugnant to the principles which have been established in the third chapter, and indeed is
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never supported by any thing which has even the semblance of solid argument. The source of the error appears to have been the want of discriminating between the right of inflicting punishment, and another right totally distinct from it, namely, that of selecting one particular *mode* of punishment rather than another. No man can justly be *punished* for the *purpose* of deterring others from offending ; for that would be to punish him not for his own fault, (the only ground on which the justice of human punishment can originally be rested) but either for no man's fault, or for that of others. On the other hand, if two *modes* of punishment, justifiable according to the principles which have been stated above, suggest themselves to the mind of the person injured, either of which would answer his purpose ; he is not only at liberty, but he is also bound in the sight of God to adopt that mode, which appears to him the most likely to deter others from engaging in criminal undertakings. Instead of being punished with stripes, let the offender be bound to a tree by the wayside, characterised by symbols of his guilt, if the dread of disgrace appear more likely to impress the spectators with abhorrence of the crime,

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than the apprehension of corporal chastisement.

It is also the duty of every man in the sight of God to exert the right of punishment, or to forbear from exercising it, in any particular instance, according as he is persuaded that such exertion or forbearance will most effectually promote the great purposes of his being. And in forming his judgement on these points, as well as in determining the mode of punishment to be adopted, it is his duty to consult the ends for which the aggressor was created, as far as is consistent with the other considerations which he is to take into the account,

C H A P. VIII.

ON SLAVERY—APPLICATION OF PRINCIPLES WHICH HAVE
BEEN ESTABLISHED TO THE AFRICAN SLAVE TRADE.

By slavery I mean the condition of a person who is compelled to labour at the will of another, without any previous contract.

Agreeably to natural justice, an individual may be reduced by force to this condition on two accounts :

1st. For Indemnification.

2dly. For Punishment.

The causes which may entitle one man to force another into slavery, for the sake of indemnification or of punishment, and the circumstances which should determine him to exert or to wave his right, have already been discussed in the two preceding chapters. The slavery in these cases must cease as soon as the
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the just purposes for which it was imposed are obtained. Until these are accomplished, the right of the imposer remains unaltered.

The exercise of this right during the whole, or any part, of its continuance may be transferred by the possessor to another person. It is however obvious that the transfer can convey no just power beyond either the extent or the duration of the right which existed in the former owner. Nor does the valuable consideration, which may be given for the slave by the new possessor, make any alteration in that respect. The buyer cannot acquire what the seller has no right to dispose of.

No man can be justified in wilfully contributing, either in the capacity of purchaser, or of agent, or in any other way, to detain a person in slavery who has *in fact* acted in such a manner as completely to vindicate the condition in which he is held, unless previously to his taking a single step for that purpose as purchaser, agent, or otherwise, he is convinced in his conscience on grounds sufficiently strong that this is the case. In a contest between

* See page 103, *supra*.

two individuals, I should not be justified in assisting one of them to bind, maim, or kill the other, though the aggressor; unless it were previously shewn to my satisfaction that he was so, and that the violent measure proposed was necessary for the defence of the injured party. The application is easy.

That he who has taken his enemy captive in a conflict has a right to doom him to slavery, is by no means a necessary consequence. It is idle to say that he might take the life of his conquered antagonist, and is therefore merciful in exacting only his labour. Let him establish the premises before he deduces the conclusion. The only way in which he can establish them is by proving the death of his prisoner to be requisite for the reasonable security of himself, or of those whom he has a right to protect, against future injuries apprehended on sufficient grounds from the other. It is almost needless to observe that such a plea can very rarely be alleged with truth by warriors of any age or nation, who consult their reason rather than their passions; and that reflections on the interested motives which are likely to suggest it, and a deep sense

sense of the value of life to each individual, ought to prevent it from being admitted in any possible case, without the fullest proof of the necessity described. The argument stated above, is that which is generally urged to vindicate the enslaving of prisoners taken in war; but let it ever be remembered, that all which the conqueror can claim from his captive is reparation for past injuries, and reasonable security against future violence. If he find it essential to the attainment of these ends that the other should be reduced to slavery for a longer or a shorter time, he has then, and then only, a right to enslave him. The right, however, is neither created nor extended by his having captured the other party; though that is the circumstance which happens to enable him to exert it.

The positions which have been established will furnish a ready solution of the doubts not unfrequently entertained, whether slaves retain a right to acquire or to hold property. The state of slavery does not necessarily involve the forfeiture of those natural rights. If the just ends of indemnification and punishment cannot be accomplished without depriving

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ing the slave of them, as well as of his liberty, they may be taken away ; otherwise he continues to possess them.

If the slave refuse to render to his owner the labour which is actually his due, it may justly be exacted by the use of all requisite punishment.

In no case can the master have a right to the labour of the guiltless family of the slave further than the slave himself is entitled to it. Whatever right the slave may possess to the service of his children is liable, like any other of his rights, to be forfeited ; and may be claimed and exercised by the master, as far as he finds that measure necessary for securing the just purposes of punishment and indemnification, which the former aggressions of the slave entitle the other to carry into effect. But this is the only ground on which the master can with justice claim authority over the unoffending family of the slave ; and the authority asserted on this ground by the master must terminate with respect to each particular child, as soon as that child attains to such an age as no longer to be subjected by nature to the dominion of his parent.

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This reasoning applies with equal force to the case of children born during the slavery of their parents. The master cannot derive from the latter more extensive or more permanent rights than they themselves possess over their offspring^b.

If the master, shifting the ground of argument, pleads that he has maintained the child from infancy to manhood, and not from gratuitous charity, but with a view to a proper recompense ; let him be reminded, that he has received in return the labour of the other during that period. But he replies, that “ the labour has been an inadequate return ; and “ that he has at least a right to exact the services of the child when grown up, until he

^b The maxim, *Partus sequitur ventrem*, which has been adopted into the legal institutions of some countries, evidently ceases, according to the principles of natural justice, to have any binding authority, when the child attains to such an age as to be no longer subject by nature to the dominion of his mother. After that period, whatever validity there is in the maxim itself, or in the practical consequences derived from it, must rest on the institutions of civil society. But a person, who should undertake to establish the justice of them, would in many instances find himself engaged in a task impossible to be accomplished.

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“ has obtained a reasonable indemnification :
 “ for the infant having no prospect of being
 “ supported by any other person, it must be
 “ presumed that, had he been able, he would
 “ gladly have consented to secure a maintenance on the terms of making an equitable compensation when he should have it in his power.” Why does not the master assert, that the other, had he been able, would have consented to secure his existence on *any* terms, and claim a right to detain him in *perpetual* bondage ? Why does he not affirm that he has a right to enslave any man whom he has chanced to preserve from drowning ? No consent was or could be given in either case, nor any right conveyed. Whatever debt of gratitude may have been incurred, that is a kind of debt which confessedly is not to be recovered by compulsion. In each of these instances, if assistance was given to the distressed party from proper motives, one of the most indispensable duties which a human being can owe to his Maker, and one of the greatest acts of benevolence which man can render to man, has been performed : but if the object of this benevolence should refuse all acknowledgment of the kindness, his benefactor must

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satisfy

satisfy himself in this world, and well may he be satisfied, with the conscious approbation of his own heart, and look forward to another for his complete reward.

I have hitherto spoken of the rights of the master; I will now briefly mention his duties. Not having a right to endanger the life or health of the slave, except so far as the danger is the unavoidable consequence of the reasonable service of the latter, he is obliged in justice either to provide food, clothing, and other necessaries, for the slave, or to allow sufficient time and opportunities for the other to provide them. He is also bound in the sight of God to consult by benevolent precautions in his general conduct the preservation of the health of the slave, and the recovery of it when impaired; and particularly to superintend his morals, and to furnish him with the means of religious instruction; to treat him on all occasions with kindness and forbearance, more especially to be mild in exacting labour and inflicting punishment; and not to give or to sell the slave to any person, whom he does not think likely faithfully to perform the duties of a master.

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The end for which moral principles are investigated is the direction of human conduct. During our investigation of them, their final object ought ever to be kept in view; and no fit opportunity should be omitted of pointing out their bearings on topics of importance, especially on such as are agitated at present. The positions which have been maintained in this chapter, can never be more properly applied than to the elucidation of the question now before our legislature, concerning the abolition of the African Slave-trade. I shall therefore apply them to that subject, with the brevity which is required by the limits of my general plan.

It appears then, that those writers, who have contended that a state of slavery cannot be reconciled with justice, and that the possession, the sale, or the transfer, of a slave, is in every instance an act of usurpation, have proceeded to much greater lengths than sober argument will vindicate. It would in truth have been as reasonable to maintain that all penal measures, and all transfers of rights, are unjust. For if natural justice permits a man to be deprived, in certain cases, of his limbs

or of his life, can it universally forbid the exaction of his labour? And if one man is entitled to the service of another, does not justice allow him to give or to sell that right, like any other of his rights, to a third person?

For the just purposes of indemnification and punishment slavery may be imposed. Whoever therefore has honestly purchased from the *proper owner*, either in Africa or in the West Indies, a slave, whom, after *serious enquiry*, he *believes in his conscience* to have been *deservedly* condemned to that state for either of these ends, has not violated justice in the transaction; nor, supposing that his conviction continues, and that he faithfully discharges the duties of a master, will he act unjustly in exacting the labour of the slave during the term for which he was condemned (whether it were for a limited period or for life), nor in disposing of him for the whole or any part of the term to any other person, whom he has reason to think disposed and likely to treat the slave properly.

But whoever has defrauded the former owner of a slave in the original purchase;
 whoever

whoever has accepted or exercised a power over the liberty of another, without having made full and impartial inquiries whether that liberty is justly forfeited, and is also justly at the disposal of the feller; or without being convinced in his conscience that the fact is so; whoever detains the slave in bondage directly or indirectly a moment after that conviction has been done away; or a moment after the conclusion of the time for which the slavery may justly be continued; whoever does not faithfully discharge the duties of a master, or transfers his slave to another whom he does not think likely to discharge them, commits in each of these cases a flagrant sin against God; and in most of them as flagrant an act of injustice to man.

Now are any of the indispensable requisites to the acquisition of a just title to a slave scrupulously attended to on the coast of Africa? Are any of them, except it be the honest payment of the price, attended to at all? Does the purchaser make a conscientious inquiry, or does he make any inquiry whatever, into the fundamental points, whether the liberty of him who is exposed to sale be justly forfeited, and also

be justly at the disposal of the seller? Can he, who has bought a thousand slaves, point out any five of them with respect to whom he has sufficient reason to believe this to be the case? Does he not know that the wretched beings whom he purchases, are almost universally the victims of avarice, treachery, and rapine; that nearly all of them have either been kidnapped by their countrymen and relations, doomed to bondage from their infancy by laws radically unjust, seized without provocation by their own princes, adjudged to slavery for pretended crimes, or for offences altogether undeserving of such a punishment, stolen by the immediate emissaries of Europeans, or captured in wars commenced at the instigation of Europeans for the purpose of obtaining slaves?

But many of these facts are controverted or denied. Let those who distrust them read with an unbiaſſed judgement the evidence on both ſides which has been laid before the public, and their doubts will probably be ſatiſfied. Whether this be the caſe or not, let them in the next place reflect on the propenſities of the human mind, and on the information

mation which history affords, and say, whether the facts above mentioned are not consequences which must be expected naturally and uniformly to take place among uncivilized nations, inflamed with a passion for foreign merchandize, while slaves are the articles with which it must be purchased.

As these enormities are countenanced from interested motives by the numerous independent Princes of Africa, whom it is not possible that British Legislatures can control; and as they ever will be countenanced as long as those motives exist, it is evident that the African slave-trade is, and, from the nature of things, ever must be, a trade systematically deriving its support and its very existence from unbounded oppression and injustice.

This single circumstance, exclusive of the additional weight which it may derive from other considerations, is sufficient to prove that the trade ought instantly and universally to be abandoned; and, as the conscience of private individuals appears, by melancholy proof, unable to restrain them from entering into it, that it is the duty of our Legislature, both to

God and man, by an immediate act of abolition to prevent those at least, who are under its jurisdiction, from acting either as principals, abettors, or accomplices, in a system of such flagrant, extreme, and incurable iniquity.

Those who have contended for the abolition of the Slave Trade solely or chiefly on the ground of humanity, have evidently narrowed the basis on which their cause ought to rest, and have neglected the strongest argument in its favor. I know that humanity has more popular attractions than justice. Attention to the former seems to imply spontaneous merit; observance of the latter is regarded as the constrained discharge of a debt. It should however be remembered, that the suggestions of humanity may in some cases oppose each other; and may perhaps be fairly counterbalanced or outweighed by different considerations. The demands of justice are always consistent with themselves, and may on no plea whatever be disobeyed.

But let me not be supposed to intimate, that there are no arguments of importance to be urged for the abolition of the Slave Trade
besides

besides those which are dictated by justice. There are arguments suggested by a regard to humanity and other duties, which of themselves ought to determine the Legislature instantly to enforce that measure, if all considerations of justice were omitted.

By the Slave Trade we necessarily contribute, to the utmost of our power, however we may regret, or may affect to regret, the circumstance, to retain vast regions of Africa, many times larger than Great Britain, in a state of barbarity and ignorance; to arm every man's heart and hand against his neighbour; to destroy the security and poison the comforts of domestic life, by keeping every individual in momentary fear of being seized by a lurking enemy, or even by his own kindred, and hurried on board a slave-ship; to foment continual, bloody, and unprovoked wars; to encourage the savage tyranny of the Princes, and direct it against their guiltless subjects; to perpetuate the most iniquitous laws and institutions; and to prevent the diffusion of the religion of Christ. Who will lay his hand on his heart, and affirm, as in the sight of God, that the purchase of the
greatest

greatest advantages, private or national, could be justified on such terms for a moment^c?

I shall not dwell on the injuries and calamities which the slaves experience on their passage

^c The flourishing and happy state of many countries on the coast of Africa before the Slave Trade was introduced there by the *christian* nations of Europe, and the truly miserable condition to which by means of the Slave Trade those countries have been depressed, are clearly shewn in a tract entitled "Historical Sketches of the Slave Trade, by the Right Honourable Lord Muncafter, 1792." That the Slave Trade was *created* by the Europeans, is confessed by those who from the business in which they were engaged would be little disposed to recognize the fact. A gentleman, *employed by the Royal African Company* in 1726, expressly says, "The discerning natives account it their greatest unhappiness that they were ever visited by the Europeans. They say that we Christians introduced the traffic of slaves, and that before our coming they lived in peace; but, say they, it is observable that wherever Christianity cometh, there come with it a sword, a gun, powder and ball." Historical Sketches, P. 5. quoting from Smith's Voyage, P. 266. Let those who are Christians in reality, as well as in name, draw the proper lesson from these words. It ought never to be forgotten, that when Captain Hawkins, who seems to have been the first Englishman that enrolled his name in the annals of villainy as a Slave Trader, had made a piratical kidnapping voyage to Africa,

passage to the West-Indies, and after their arrival there (though they result from the trade, and I am persuaded will to a great degree be coeval with it), because an investigation of them would swell this part of the work to a disproportionate size; and because, if they

Africa, Queen Elizabeth, having heard of it, sent for him, and expressed her deep concern lest any of the African negroes should be carried off without their free consent; *which, she declared, would be detestable, and could not fail to call down the vengeance of Heaven.* See Historical Sketches, P. 13. Whatever we may hear professed, and whatever specious sophistries may be urged for the continuance of the Slave Trade, the real truth is, that the secret principle which most commonly influences the advocates for that trade (though in many cases it is undoubtedly unperceived by themselves) is an eager desire of clinging to villainy when deemed politic and advantageous; or, in other words, an almost absolute determination not to obey the unequivocal dictates of moral and christian duty which seem to require the sacrifice of interest. It is the principle which spoke out plainly by the mouth of the Dutch merchant, who, when reproached by the Prince of Orange for supplying the enemy with ammunition to be employed against his country, replied, " Monseigneur, si on pouvoit faire par mer quelque commerce avantageux avec l'Enfer, je hasarderois d'y aller bruler mes voiles." " If it were possible to carry on by sea any lucrative commerce with Hell, I would go thither at the hazard of scorching my sails." (Voltaire's Age of Louis XIV. Amsterdam, 1771, Vol. I. P. 393.)

were

were completely removed, the arguments already adduced would still be decisive. I will however briefly notice the principal grounds on which the abolition is resisted.

1st. It was shamelessly asserted a few years since that the negroes are a race essentially distinct from Europeans, and inferior to them; and the assertion is even yet occasionally heard, though it is equally unphilosophical and unchristian. For, does not historical experience teach us that complexion depends almost entirely upon climate, and talents on civilization, as clearly as scripture affirms, that God^d made of one blood all the nations on the face of the earth? But were the negroes proved a distinct and an inferior race, should we have on that account a right to enslave them?—When God has seen it fit to give us our rights over animals by express declarations in the scriptures, and has thereby instructed us that we should not otherwise have been authorised to exact their labour, would superiority of nature have entitled us to exercise authority over a negro, which would have been usurpation if exercised over a brute?

^d Gen. ix. 19. Acts xvii. 26.

2d. But

2d. But we are told that the Negroes are the descendants of Ham, and therefore devoted to slavery. The doom of servitude is denounced in scripture only against the posterity of Canaan, who, I presume, is not conceived by any one to have been the progenitor of the Africans. I will not waste my reader's time in shewing how futile the argument would have been, had Canaan been the founder of their race.

3d. Another plea for the continuance of the Slave Trade is sometimes urged on pretended grounds of justice. It is alleged that, as the West-Indian owners have purchased and improved their estates under the expectation of cultivating them by negroes obtained from Africa, the Legislature of this country, by professedly encouraging the cultivation of the islands, has entered into an implied engagement with the planters to permit the continuance of the Slave Trade. The most explicit engagements to that effect, had it been true that such had ever been entered into by our Legislature, would not have been binding; since they could not have been performed without flagrant injustice to the Africans, the
invasion

invasion of whose rights the British government never was, nor ever can be, authorised to promote.

4th. The Slave Trade, and all its horrors, are sometimes vindicated on the plea, that the negroes being treated with the greatest kindness in our colonies, are much happier in their slavery and exile, than they would have been in the enjoyment of liberty at home. And, as a proof of this singular circumstance, we are told, that free negroes in the West-Indies have refused the offer of returning to their own country. It would indeed be extraordinary if a negro should abandon Jamaica, where he had at length acquired connections, property, and freedom, for the sake of revisiting Africa, where he would find himself friendless, forgotten, and disregarded: when he must also know, that if he should escape the not improbable event of being sold to some European in his way, he might reasonably expect to be seized again in his own country as he had been before, be again constrained to encounter the miseries of the middle passage, and be returned a slave to the island from which he had set sail exulting in his liberty.

Let

Let us however allow the advocates for the Slave Trade the full advantage of their absurd and incredible plea, that not only the free negroes, but even the slaves, are happier in our islands than they would have been in Africa; a plea which, were it true, would of itself decisively establish the miserable state to which Africa is reduced by the traffic which they strive to vindicate: but let us in our turn require them to prove that they have a right to enslave others for the purpose of making them happy. The existence of any such right has been sufficiently disproved in a former chapter; and would not readily be admitted by those with whom we are contending, if it were claimed by a negro over themselves.

But the negroes in our colonies are treated with kindness! That they are thus treated by many masters I doubt not. Let it be admitted that they are so treated by all. Is this circumstance then urged, seriously urged, as a vindication of the continuance of the Slave Trade? Let the highwayman plead in his defence that he only robbed the traveller, and did not murder him. Let the horse-stealer allege

allege that he has ridden with moderation, and fed sufficiently, the animals which he carried off. Let a court of justice accord to these pleas not merely pardon for past crimes, but an express licence to repeat them; and then, and not till then, let the man-stealer, and the receiver of men knowing them to be stolen, insult the common sense of the British Parliament by demanding a licence to continue his depredations, on the plea that he has neither starved nor flogged to death the wretches whom he has enslaved.

5th. Finally, it is affirmed that, while the Slave Trade is continued by other nations, the abolition of it on the part of Great Britain would produce no alleviation of the miseries of Africa, and would destroy a principal source of the revenue, naval strength, and prosperity of this kingdom; and consequently, that we are justified in pursuing the trade, at least until a general abolition shall be decreed by the powers of Europe.

This argument is frequently urged by men, from whose understandings and virtues better expectations might have been formed.

That

That the abolition of the Slave Trade on the part of Great Britain would be likely to produce a most important alleviation of the calamities of Africa, is a position which it would be very far from difficult to maintain; and that it would materially conduce to the prosperity both of Great Britain and of her dependencies, is a position which has been maintained by those, who from their situation ought best to understand the sources of our national strength, and are of all men the least likely to wish to have them exposed to hazard, with arguments which have not yet been disproved. But let both the facts be allowed, precisely as they are stated by the friends of the Slave Trade.

Have we then a right to join in rendering Africa miserable, because others would still harass her though we should refrain? Would my reader think himself justified in bearing a part in a scheme to plunder or defraud an European, by the plea that, if he were to decline the offer, a bystander was ready to supply his place? Can he then, either as a private man or as a legislator, abet a systematic plan of injustice and fraud directed against the free-

dom of negroes, and be innocent? On such a plea the smuggler, the thief, the assassin, every criminal of every description, might claim a plenary indulgence for his enormities.

But the interest of the kingdom requires the continuance of the trade!

And are we at liberty to try to support the interest of the kingdom by depriving unoffending foreigners of their rights; by an uniform succession of outrages against humanity and justice? If there be a Power in heaven who decides the fate of nations, can we think it likely, can we suppose it possible, that villainy will be permitted to promote the national welfare? What would have been robberies and murders if committed by single highwaymen, are they not still robberies and murders, though the perpetrators have previously coalesced into a troop, a society, or a nation? It is a momentous truth, and a truth little regarded, that the rules of morality are as binding on nations as on individuals; and that our obligations as Englishmen are subordinate to our duty as Christians.

I would

I would in the last place ask those who allege the general argument stated above, what their sensations would be, if they or their children were captured and carried slaves into Morocco; and were told by the tyrant of the deserts, that the depredations of his corsairs were most grating to his feelings; and that he would assuredly put an end to them, if he did not foresee that they were requisite for the welfare of his realm, and that he could not obtain the concurrence of his brother of Algiers.

I cannot conclude without expressing my ardent hope that, if the present attempt to abolish this disgraceful commerce should by any means, or in any degree, be rendered abortive, the friends of the abolition will seize every favourable opportunity of again bringing the subject before the legislature, until their efforts are crowned with that complete success which such a cause deserves, and is sure finally to obtain. In the mean time it behoves the reader to reflect that the guilt of the Slave Trade, now that the true nature of that traffic is fully known, is by no means confined to the persons who are engaged in

carrying it on, and those who purchase the miserable cargoes in the West-Indies. A portion of it rests on every inhabitant of this country, whatever his station may be, who wilfully omits any one proper method, which that station affords him, of contributing to the immediate extinction of the trade. He is an accomplice in the crime who will not do his utmost to prevent it.

The emancipation of the negroes now in the islands, a measure with which, through ignorance or artifice, the abolition of the Slave Trade has been repeatedly confounded, is by no means necessarily required by the principles which I have endeavoured to establish. In a former chapter I have shewn that slaves, who have been unjustly reduced to their present condition, may yet be detained in it, as long as there is sufficient reason to believe that their liberty, if restored, would be employed in acts of outrage and revenge.

CHAP. IX.

ON PROPERTY.

It has already been proved that every man has originally a right, by the gift of God, to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.

The first and most obvious exercise of this right would be the acquisition of food, of shelter, and of clothing. To this would succeed the fabrication of rude utensils and weapons.

The right however extends beyond the bare productions of the soil. The soil itself forms a part of the common stock provided by the Supreme Being for the benefit of mankind; and any unappropriated spot may be seized by each individual for his own exclusive possession, so long as that exclusive possession is requisite for his comfortable subsistence, or

for the comfortable subsistence of the family committed by nature to his protection. The same wants, which, in consequence of being an evidence of the will of God, convey to any one a title to a certain portion of the fruits of the earth, in like manner give him a title to a certain portion of the earth itself. He has the same incontestable right to the unmolested enjoyment of the spot of ground, which he has occupied with his tent, with his grain, or with his flocks, as he has to the spot on which he is standing, or to that on which he lies asleep.

He therefore, who, in consequence of these wants, has taken possession of a vacant cavern for his habitation, and of the adjoining unoccupied hill for the pasturage of his cattle, has authority from God to defend them against every aggressor. But the right which necessity creates necessity limits. He has no claim to a greater extent of land than is requisite for the comfortable subsistence of himself, and of the family, the flocks, and herds, which God has given to him. If a savage, before America was inhabited, had been driven in his canoe from Tartary to Cape Horn, he would have had

had an indubitable right to the exclusive possession of such a district round his hut as was necessary for his support ; but he would have had no right to object to future strangers settling on a distant part of the coast, on the plea that he was the first occupier of that quarter of the globe, and that he stood in need of the whole continent for his hunting ground.

The cavern, however, and the hill, the flocks, and the utensils, and whatever other articles of property had not been previously transferred by gift to some other, and become his actual right, must revert, on the dereliction or death of the owner, to the common stock, and be open to the next occupant. The original possessor's right was founded, as we have seen, on his need, and extended only to the use of them ; and being voluntarily abandoned on his dereliction, or extinguished together with the need and use at his death, no longer exists after either of those events, and consequently cannot be transferred.

It cannot be said that the late possessor had by his will, supposing him to have left behind him some memorial of his wishes,

transferred the right previously to his death ; for at any period during the remainder of his life he might have destroyed or altered his will at his own pleasure.

Neither can it be alleged, that as the testator made the offer during his life, while the right was indubitably his, the acceptance of the legatee, after the decease of the former, completes the transfer. Not to insist on other objections to which this reasoning is liable, it may be sufficient to observe, that the rights of the testator, terminating at the moment of his death, and confessedly not having devolved to the other party previously to the completion of the supposed transfer by acceptance, must have ceased to exist before the period when this transfer of them is said to take place.

The end, which in civil society is answered by wills, might, antecedently to social institutions, be attained by another method of proceeding. A father, for example, might give to his son the property which he wished the latter to possess after his own death ; and might secure to himself, if he should think fit, the enjoyment of it in the mean time, by
making

making the donation on the express condition, that his son should permit him quietly to possess the property in question as long as he should live. Were the offer accepted by the son during the life of the father, the transfer of the right would immediately take place. It is however obvious that such a transaction would be specifically distinct from a testamentary bequest,

Mr. Paley and other moralists contend, that those moveables which are to a great degree the produce of a man's personal labour, as his tools, weapons, and other similar possessions, may originally be disposed of by will; because the owner has employed his own labour upon them ^a, and has inseparably mixed it with them ^b, thereby giving them a great increase of value, which increase is inseparable from, and makes a great part of, the whole value.

The foregoing reasoning, notwithstanding the respectable names by which it is sanctioned, rests on unsubstantial foundations. No man can prove any just title originally to appro-

^a Paley, Vol. I. P. 221.

^b Vol. I. P. 115, 116.

priate to himself either flocks, herds, and fruits, or any productions of the earth (whether as materials for his weapons, utensils, and moveables, or for any other purpose), nor consequently to retain them afterwards, whatever alteration he may have wrought in them by his labour, except the right which arises from their being necessary for his comfortable subsistence; a right which is inevitably extinguished by his death. No man by exerting his labour upon what is not his own can acquire a title to it; nor, by labouring on a substance to which he has a title only for a limited time, can he render that title permanent, whatever be the additional value which the material may receive from his operations.

If the arguments by which Mr. Paley endeavours to maintain his position, that an individual has a natural right to dispose of his moveables by will, possessed any real force, they would prove him to have the same right to bequeath land, which he has reclaimed from barrenness to fertility. And, in fact, Mr. Paley maintains that land ^c under these cir-

cumstances becomes the property of the cultivator as absolutely as the utensils are which he has manufactured. He adds, that the individual, who thus improves it, does not thereby acquire a right to it in perpetuity, and after this cultivation and all its effects are ceased. It follows however, according to his statement, that the improver may, by will, convey to another a right over it for the period during which the effects of his labour shall continue. Yet in a subsequent ^d chapter Mr. Paley proceeds

^d P. 222.—Mr. Paley argues on this subject nearly in the manner which I have adopted—that “ in a state of nature a man’s right to a particular spot of ground arises from his using it and wanting it, consequently ceases with the use and want ; so that at his death the estate reverts to the community, without any regard to the last owner’s will.” Yet these are arguments to which Mr. Paley can give no weight consistently with his fundamental principle. He ought to have confined his researches to the single point, whether the existence of the right of bequeathing land in a state of nature would, or would not, promote the happiness of mankind. If this question be determined in the affirmative, he must maintain the existence of the right, in defiance of the arguments by which he has disproved it.

It is to be observed that, in asserting the right of bequeathing moveables, Mr. Paley has paid no more attention

ceeds to establish the opposite conclusion, and to establish it on principles which admit of no exception, that land previously to the institution of civil society cannot be disposed of by testamentary bequest,

The true state of the case is, that the right of disposing by will of property of any kind can be established only on the ground of social convention. The manner in which that right is created, and the mode of its operation, will hereafter be noticed in the proper place.

The principles which have been deduced in the present treatise oblige me to deny the existence of a right (its existence, I mean, considered as independent of the institutions of civil society), which Mr. Paley, in common with other moralists, has supported; that is to say, the right of extreme necessity. This he defines to be * “ a right to use or destroy an-

tion to general expediency than he has done in disproving the right of bequeathing lands. The reader, who has perused his work attentively, will have perceived that it is not uncommon with him to lose sight of his fundamental principle, and to argue on other and less fallacious grounds.

“ other’s property, when it is necessary for our
 “ own preservation to do so.” And as an in-
 stance of it he mentions “ a right to take,
 “ without or against the owner’s leave, the
 “ first food, clothes, or shelter, we meet with,
 “ when we are in danger of perishing through
 “ want of them.” And he asserts it to be “ a
 “ general right, as it is incidental to every
 “ man who is in a situation to claim it.”

In the first place, I must observe that Mr. Paley has adduced no arguments to prove the only fact, which, according to his fundamental position, can demonstrate the existence of the right; namely, that arming every man with authority to deprive another of his property, whenever he imagines that property to be necessary for his preservation, would promote the happiness of mankind. How would it appear, were we to argue on his own principle of expediency, that this is a case “ in^e which
 “ the particular consequence exceeds the ge-
 “ neral consequence,” and that “ the remote

P. 103. I have already quoted Mr. Paley’s preliminary observation, that, “ in computing consequences, it
 “ makes no difference in what manner or at *what distance*
 “ they ensue.”

“ mischief

“ mischief resulting from the violation of the
 “ general rule is overbalanced by the imme-
 “ diate advantage ?”

In the next place we may ask, for the preservation of *what* particular objects this right may be exercised. Not merely of life, but of property also ; for Mr. Paley authorises every man on *this* principle^s to pull down a neighbour's house against his consent, to stop the progress of a fire. Can we say then that there is any kind of property for the security of which it may not be exercised ? Much more may not it be exercised by any man for the security of what is dearer than property, his health ; of what is dearer than life, his good name ? May not he forcibly possess himself of the house of another, should he be persuaded that his desire for it, if it be not gratified, will bring upon him death, or delirium, or melancholy ? May he not seize his neighbour's purse, that he may be enabled to silence a venal calumniator, who threatens to ruin his character ? In short, if the principle be admitted in any one instance, where is the line to be drawn ?

“ The foundation of the right,” Mr. Paley says, “ seems to be this; that, when property was first instituted, the institution was not *intended* to operate to the destruction of any; therefore, when such consequences would follow, all regard to it is superseded.” The insufficiency of this mode of reasoning will appear by an application of it to other instances. The right to defend ourselves, with which we are endowed, was not *intended* to operate to the destruction of any. Is it therefore never to be permitted so to operate? The institution of municipal laws was intended for the *benefit* of every member of the society, and not for the destruction of any. When the latter consequence would follow, is all regard to them superseded?

That no such right as that of extreme necessity can exist until it be created and established, as it very frequently is, by the laws of particular communities, has already been shewn. It has been proved, in the discussion of the third proposition, that no man, except he receive an especial divine permission, has a right to deprive another of his property, or to restrain him in the enjoyment of it, without his
consent

consent having been previously given, unless the latter has invaded, or shewn a design to invade, the rights of the former, or of some person under his protection ^h.

The

^h Nearly allied to this supposed right of extreme necessity is a right, frequently maintained by worthy and intelligent men, to depart from established rules of justice in *extreme cases*. They assert that every moral principle may be rendered *absurd* by being pushed too far; and in order to prove this assertion, they put extravagant cases, in which they apprehend that great hardship and mischief would result from a rigid adherence to general rules. Now, were we to reason with them on their own grounds of expediency (for expediency, which has been proved inadequate to the establishment of any right, is the ultimate basis of their argument), the point in question would be decided against them by a considerate and unprejudiced umpire. For he would in the first place observe, that the cases, which they find themselves obliged to adduce in support of their cause, are such as from their very nature can rarely occur; and consequently that little addition would be made to the sum of human felicity, were the deviation from established rules for which they contend put in practice in those, and in similar instances. And in the next place he would remark, that if once such a deviation were authorized, men with the purest intentions would naturally be led by imperceptible degrees to conceive almost *any* case in which their feelings were strongly interested to be an *extreme case*; and that the unprincipled and artful would frequently represent, and with sufficient plausibility, a
common

The positions which have been maintained in this chapter, and in the three preceding chapters on Indemnification, Punishment, and Slavery, are strictly applicable to the proceedings between independent states, unconnected by any particular engagements. The various
 modifications

common case as *extreme*, and would in consequence be suffered by their more ignorant neighbours to act as if it actually were so ; inasmuch that the unjustifiable proceedings, and the miseries thence ensuing, to which the misapplication and abuse of the principle would give birth, would abundantly outweigh the seeming good effects which might occasionally arise from the proper use of it.

As to the *absurdity* which they allege, it must be remarked that no apparent absurdity can impeach the validity, or limit the operation, of a rule of justice, except that which would result from a proof that the rule as applied contradicts itself, or some other branch of justice. A proof of such an absurdity would be decisive ; for truth must always be consistent with itself. But the position that the rules of justice are of universal obligation can never be shewn to be absurd in this proper sense of the term ; and indeed it will be found on observation, that they who combat it usually strive to prove it absurd, not by shewing that any such contradiction as I have described is inherent in the position which they oppose, but by an appeal to men's feelings, or to their ideas of expediency ; and therefore build their reasoning on extravagant cases, calculated

modifications which these rules undergo, when applied to proceedings between members of the same community, arise from the peculiar rights and obligations of governors and subjects, which will be briefly investigated in a subsequent part of this treatise.

to overpower dispassionate argument by an instantaneous and violent impression on the mind.

The reasoning which I have urged against the right of extreme necessity is equally applicable to the right of deviating from the rules of justice in extreme cases. These supposed rights are equally irreconcilable with the propositions established in the second and third chapters; they are equally destitute of foundation, equally indeterminate in their extent, and appear equally fitted to disturb the peace and happiness of mankind.

C H A P. X.

ON ENGAGEMENTS.

ENGAGEMENTS take place by means of an exercise of the authority from God which it has been shewn that each individual possesses to alienate his rights, and to accept such rights as may be transferred to himself.

As all engagements, however distinguished from each other by being ranged under different denominations, by being contracted with peculiar formalities, or attended with peculiar conditions, are intrinsically of the same nature, my observations, though confined to those usually comprised under the name of Promises, will be equally applicable to engagements of any other description.

A promise is not a mere declaration of an intention ; it is an engagement to the promisee that the promiser will act in the manner specified.

Consent understood to be given and accepted, by whatever means the consent and acceptance are signified, constitutes a promise; but less than this will not constitute one. If the one party does not accept the right offered to him by the other, matters remain as they were before the offer was made. Promises then do not exist before acceptance, and consequently are not binding.

Any one of the rights of an individual, unless held under a stipulation that it shall not be alienated, may be the subject of his promises; for we have seen that all such rights are at the owner's disposal. If therefore he should promise to part with any thing which it was his duty in the sight of God to have retained; if a father, for example, should engage to give to a stranger the property which he ought to have reserved for the future benefit of his own children; he is naturally at liberty to do so, and the promise is valid.

The obligation to perform a promise is a branch of the general obligation not to infringe the rights of another. When an individual by an engagement has transferred to
his

his neighbour one of the gifts which God had bestowed upon him, the latter has the same right to it which the original proprietor had before the transfer; and if it be withheld from him, he has the same right to use force for the recovery of it as for the recovery of any other article of his property.

The foregoing positions respecting the circumstances which a promise involves as essential to its existence, the subjects which it may embrace, the obligations which it imposes, and the rights which it confers, may be illustrated by the following instance.

If a traveller ask a shepherd the road to the place whither he is journeying, the latter is not originally under any obligation to the inquirer (whatever may be his duty in the sight of God) to communicate information. His knowledge is his own, and he may impart or withhold it at his discretion. The traveller requests him to impart it. If the shepherd returns an answer which he knows the former will consider as an assent to his request, that is, as a direct or implied promise that he shall be put in possession of the knowledge in question,

this knowledge is now become the actual property of the traveller ; and the latter has the same right to use force, if force be necessary, for the purpose of obtaining it from the former, as he would have to obtain the delivery of a lamb which the shepherd had promised to him, or the restitution of a horse of which he had robbed him.

In whatever manner the promise may have been made, whether it were expressed or implied, whether entered into by words or by actions, the preceding reasoning will be equally applicable.

The shepherd might enter into a valid engagement to give the traveller right directions even by wilfully directing him wrong ; for he would know that the traveller would understand *any* directions not palpably absurd as an assent to his request. He might convey a promise by a nod as intelligibly as by the most positive assurances ; and however it were conveyed, he would be equally bound, and might with equal justice be compelled, to fulfil it.

But

But the shepherd would not be bound to those to whom he could not be supposed to mean to engage himself. The strongest assurances given to the traveller would not lay the shepherd under any obligation of shewing the road to a listener, whom he did not know to be at hand, or evidently did not mean to address.

“ Where the terms of a promise admit of
 “ more senses than one, the promise is to be
 “ performed in that sense in which the pro-
 “ mifer apprehended at the time that the pro-
 “ misee received it.”

This^a is Mr. Paley's rule for the interpretation of promises; and it is very just. He proves it indirectly in the following manner.

“ It is not the sense in which the promiser
 “ actually intended it, that always governs the
 “ interpretation of an equivocal promise; be-
 “ cause at that rate you might excite expecta-
 “ tions which you never meant, nor would
 “ be obliged, to satisfy. Much less is it the
 “ sense in which the promisee actually re-

^a Paley, Vol. I. Page 125.

“ceived the promise; for according to that
 “rule you might be drawn into engagements
 “which you never designed to undertake.
 “It must therefore be the sense (for there is
 “no other remaining) in which the promiser
 “believed that the promisee accepted his
 “promise.”

For the satisfaction of my reader, who may reasonably wish for a demonstration of the truth of the rule from first principles, the following is subjoined.

Consent, understood to be expressed by one party and to be accepted by the other, constitutes a promise. The promiser, therefore, is bound to fulfil what he meant to express and believed to be accepted; and the promisee has a right to claim what he meant to accept and believed to be expressed. If either of them apprehended that the other party had a different meaning from himself, but did not intimate his doubts and come to an explanation, he is bound to adhere to that different meaning; for by his silence he implied acquiescence in it. So that, in fact, the promiser is bound to fulfil what he believed to be accepted, and the promisee

promisee to claim no more than he believed to be expressed.

In certain cases promises are not binding.

1st. When either the promiser at the time of giving his consent, or the promisee at the time of accepting it, is physically incapable of understanding whether the transaction would be conducive to the purposes of his being.

The positions, on which this rule is founded, were established in the latter part of the third chapter.

Thus the promises of infants, idiots, and lunatics, are naturally void.

So are the promises of a drunken man, if at the time of making them he was so far overpowered by intoxication as to be no longer capable of discerning his duty ; but not otherwise. Whether this was the case or not, must be determined from particular facts ; in the same manner as you would ascertain the degree of mental disorder which constitutes madness.

Perhaps

Perhaps it may be said, that the drunken man, notwithstanding the derangement of his intellects, is answerable for his actions while in that situation ; having reduced himself to it by his own voluntary act. That argument, if it had any force, would apply equally to the cases of such idiots and lunatics as have brought their incapacity on themselves by their own misconduct ; by the gratification of intemperance, or through the excess of passion. It is not, however, applicable in any of these cases. Although every man who deprives himself of reason is answerable to God, yet if he be in fact, through whatever cause, no longer capable of understanding and fulfilling the purposes of his being, he is unable to convey any right ; and what he cannot convey, the promisee cannot acquire from his consent. The laws of civil society may interpose, and render the drunken man responsible for the promises which he shall afterwards make in the hour of intoxication ; but we are enquiring into the state of the case when human laws have not settled the point.

2dly. Promises are not binding, when an express or implied condition, on which they are

are understood by both parties to be founded, fails without the fault of the promiser.

For the terms are not fulfilled on which alone the promise was to be obligatory.

Thus if a person undertakes to assist another, avowedly supposing him to be unjustly attacked, he is released from his promise, if he discovers the promisee to be the aggressor. So likewise in contracts, which are mutual promises, if one party fails in the performance of his engagement, the other is released; unless there were some previous stipulation to the contrary.

If the promiser be previously apprised of the failure of the condition, or wilfully occasion it, he violates his engagement, and may be compelled to make satisfaction.

These rules will be illustrated by a consideration of the case of promises, the performance of which is impossible.

Such promises are evidently not binding: for the possibility of performance must be a
supposition

supposition on which the promise was understood and accepted ; and of course was a condition of the promise.

But if the promiser was privately aware of the impossibility when he made the promise ; as if he engaged to put a tenant into immediate possession of a farm which he knew was under lease to another ; or if he afterwards occasioned it, as if the owner of a ship, after engaging to convey a passenger to the West Indies, and to receive him on board on an appointed day, were to set sail a month before hand without him ; the promisee has a right to compensation for the loss which he sustains by the non-performance. For in each case he acquired a right to the thing promised, and in each case the disappointment of his just claim, and the consequent injury which he receives, is owing to the wilful fault of the promiser.

If the promiser, on discovering the impossibility of performing an engagement which he has contracted, should also discover that it is an impossibility capable of being removed ; he is bound to use all reasonable exertions in order to remove it. For he cannot suppose
that

that the promisee understood him to mean less than that he would fulfil his engagement, if it were possible; and that if the performance of it should prove impracticable for a time, he would exert all such methods, as under all the circumstances of the case could fairly be deemed reasonable, to remove the obstacle, and to remove it without unnecessary delay.

3dly. Promises are not binding, the performance of which would be unjust, that is to say, would be an infringement of the rights of a third person.

For the promiser cannot convey a right which is not his to dispose of; and consequently the promisee cannot acquire it.

If both parties were aware of the injustice of performance at the time when they entered into the engagement, the case is clear; neither of them can have a doubt of the promise being void. Nor is the promiser bound to indemnify the other, as a right could never be supposed to be conveyed to him.

If

If both parties were, as far as appears, unapprised at the time of engaging of any injustice attending the performance, the promisee, on this injustice being discovered, (whether it did or did not exist when the promise was made) has no claim to indemnification. For all engagements, where nothing appears to the contrary, must be understood to have proceeded on the supposition, that is, on the implied condition, of the performance being compatible with justice.

But if the promiser has wilfully occasioned the injustice of performance; or if he was privately aware of it at the time of making the engagement, and the promisee was ignorant of it; in either case he is liable to a just demand of compensation. For by his promise he engaged to put the other party in possession of the matter in question; and he is bound to make reparation for the disappointment and injury, which he has wilfully occasioned by designedly producing or fraudulently concealing the injustice which would attend the performance of the engagement.

The

The reasoning which has been stated on the subject of promises, the performance of which is unjust, fully applies to promises which contradict a former valid engagement. For the right pretended to be conveyed by the subsequent promise was already transferred to another person by the former.

The three general rules which have been stated comprehend, as I conceive, all the cases in which it can be proved that promises are naturally void. It may, however, be worth while briefly to notice a few remarks, which have been made by ethical writers on this subject.

Mr. Paley^b affirms, that the performance of a promise is unlawful (and consequently that the engagement is void), when it would be inconsistent with what he terms an *imperfect* obligation. It would not be difficult to prove this rule radically erroneous in its principle; and to shew that it has led, and must necessarily lead Mr. Paley, to conclusions the reverse

^b Page 132, Vol. I.

of those which he has maintained on other ^c grounds : but as the difference between the kinds of obligations which moralists have denominated perfect and imperfect has not yet been specifically discussed in the present treatise (nor would this be a fit place for the discussion), I shall only observe that, if the rule were true, no reliance could be placed on any engagement. The promiser would in numberless cases actually discover some imperfect obligation which would be violated by the performance ; and in every case he would be able to feign such a discovery, without being liable to confutation ^d.

I ap-

^c See particularly the instance of promising a person your vote (P. 132), a promise which Mr. Paley declares not to be binding when opposed to an imperfect obligation ; and compare it with his observations on the same instance, P. 138. How can these decisions be reconciled, since Mr. Paley expressly admits, P. 91, that you are under an imperfect obligation to give your vote to the better candidate ?

^d The moralists of antiquity were extremely *liberal* in granting exemptions from the obligation of performing promises ; as might be expected from the looseness of principle which pervaded their whole system of moral conduct. Cicero, who was undoubtedly one of the wisest and most virtuous of them, lays it down as an undeniable and self-

I apprehend that other errors have been admitted into Mr. Paley's chapters on promises, and on lies, important enough to merit particular notice.

Mr. Paley affirms * that " a promise cannot

self-evident rule, and without the smallest exception or qualification whatever, that no promises are binding which a person makes in consequence of being constrained by fear, or deluded by artifice. " Jam illis promissis standum non esse quis non videt, quæ coactus quis metu, quæ deceptus dolo, promiserit ?" De Officiis, Lib. I. He states further, and in terms equally positive, that a promise is not obligatory, when the performance of it would be unprofitable to the promisee; *or when the performance would occasion more disadvantage to the promiser, than benefit to the other party.* " Nec promissa igitur servanda sunt ea, quæ sunt iis, quibus promiseris, inutilia; nec si plus tibi noceant, quàm illi profint, cui promiseris." Ibid. It is to be observed, that although Cicero grounds these rules on the two principles which he had previously laid down as the foundations of justice, one of which principles was general utility (*ut communi utilitati serviatur*); yet in each of them he seems altogether to lose sight of the benefit of the promisee, and to constitute the promiser the judge of the value of the promise to the latter, who is thus left wholly at his mercy. We have here an additional proof that moral rules, professedly founded on general expediency, will usually degenerate in practice into rules looking solely to the private utility of the party who is to make use of them.

* Page 134.

“ be deemed unlawful, where it produces,
 “ when performed, no effect beyond what
 “ would have taken place had the promise
 “ never been made.”

As he^f advances no argument in support of this rule (and surely it is not self-evident), it will be sufficient to refute it by an example. An assassin determines to kill a certain individual; he is afterwards desired by another to murder the same man, and engages to do it: according to the foregoing rule his pro-

^f Perhaps Mr. Paley argued in his own mind that such a promise is lawful, because the performance occasions no injury to any one which would not otherwise have taken place; and therefore is not repugnant to general expediency. The topic of general expediency has been fully considered in the preceding pages.

The rule not being just, Mr. Paley's subsequent reasoning deduced from it, that “ in this case the obligation of a “ promise will justify a conduct, which unless it had been “ promised would be unjust,” falls to the ground. In no case will a promise bind any one to be guilty of a breach of justice, or vindicate the action.

The right of the captive, in Mr. Paley's instance, to regain his freedom by a promise of neutrality, arises not from the unfounded principle to which Mr. Paley ascribes it, but from these circumstances; that the laws of nature and of his country leave him at liberty to enter into such an engagement, if he thinks fit.

mise

mise is lawful, for he would have committed the murder if he had not made it. Or, let us suppose an instance which may seem less atrocious. A tyrant issues orders for the execution of an unconvicted prisoner, whose only crime has been a support of the liberties of his country; by Mr. Paley's rule, if a person thoroughly assured of the innocence of the sufferer, and of the illegality of the mandate issued for his death, were to undertake to become the executioner of the usurper's vengeance, his engagement would be lawful. But are not these conclusions as repugnant to Mr. Paley's previous reasoning on unlawful promises, as they are to the principles which have been maintained in my present chapter?

Mr. Paley also affirms ^s that "falsehoods are
 " not lies, that is, are not criminal, where
 " the ^h person to whom you speak has no
 " right to know the truth; or, more properly,
 " when little or no inconvenience results from
 " the want of confidence."

This rule, under either form, is destitute of any solid foundation.

^s Page 184.

^h Page 185.

In reply to the first statement it may be remarked, that if a person puts a question to you when he has no right to insist on a reply, and you answer him in such a way as you think or hope will lead him to conclude that you mean to impart to him the desired information, you *give* him a right to it; and you are guilty of a breach of promise, that is, according to Mr. Paley'sⁱ definition, of a lie, if you do not communicate it: for, to proceed in his own words, " whoever seriously addresses his discourse to another tacitly promises to speak the truth, because he knows that the truth is expected."

The rule under the second form would speedily be found in practice to authorise every man to violate truth at his own discretion. It is founded on general expediency, a principle which has been already refuted^k.

ⁱ " A lie is a breach of promise." Paley, Vol. I. Page 184.

^k Mr. Paley's decision under this rule, that you may tell a falsehood to a robber or an assassin to save your property or your life, cannot easily be reconciled with his doubts, p. 140, whether a promise extorted by them is binding.

The practice of deceiving an enemy by feints, false colours, spies, and false intelligence, is justified according to Mr. Paley by the preceding rule. The foundation however must be strengthened before it will support the superstructure. It may be sufficient, without entering into particulars, to observe in this place, that the only stratagems which can be employed against an enemy, consistently with natural justice, are such as do not involve either an express or an implied promise of sincerity.

From the positions already established respecting the rights of defence it follows, that the performance of a valid promise may be suspended, as long as the promiser has sufficient reason to believe that the thing promised, if delivered, would be employed in an attack on the rights of himself, or of some person under his protection; unless there were an express or implied condition to the contrary.

Extorted promises are naturally binding.

This point has long been contested among moralists. To argue it fairly, we must suppose

pose that the extorted promises are not such as would be void, if they were voluntary.

On what plea then is an exemption from the general obligation of performance claimed for him whose engagement was extorted?

1st. It is claimed, because the promiser entered into the engagement in consequence of violent constraint and apprehension.

By our previous supposition the promiser was not reduced to a physical incapacity of understanding and adopting either of the alternatives offered to him. How then did the force and apprehension affect him? They laid a strong bias on his will, and set before him a powerful temptation to make the promise. And does this circumstance render the promise void? If you affirm that it does, you must affirm the same in every case in which the promiser is under an inducement equally strong, arising from persuasion, or from interest, or from passion; for, provided the bias be laid on his will, and the temptation be set before him, it is of no more consequence to the argument by what means this is effected, than

than it is whether the assailant in the present case attacked him with a sword or a club. And further, since it is impossible to assign a reason why any particular degree of bias is the lowest which exempts a man from the obligation of performance, you must ultimately maintain that every promise, contracted in consequence of any the most trifling inducement, is void; in other words, you must maintain that no man ever was bound, or ever will be bound, to perform any promise whatever¹.

2d.

¹ Dr. Rutherford, in his *Institutes of Natural Law*, Vol. I. p. 189, after reprehending with justice the confused and inconsistent reasoning of Grotius on the subject of extorted promises, decides, that promises made through the impulse of fear to the party who occasions that fear, are naturally void. This position has been already shewn to be erroneous (in considering the first of the arguments urged against the validity of extorted promises), as far as it is rested on the fear to which the promiser was subject. Dr. Rutherford, however, rests his decision on another ground, which, as we sometimes hear similar reasoning urged at present, it may be right briefly to notice. "Such a promise," he observes (p. 190), "is not binding; not upon account of the promiser's fear, but upon account of the other party's injustice. No right can be founded in an injury; every unjust act is void as to all the mo-

2d. But the promiser, it is contended, notwithstanding his outward actions, did not give his mental consent.

“ ral effects of it, and consequently can never produce a
 “ demand in the person who is guilty of it.” Now with respect to the maxim, that *no right can be founded in an injury*, on the validity of which the present question hinges; it is a maxim which the laws of human society have with great wisdom established in many cases (in no country is it known to be by any means universally established), as a fundamental principle of jurisprudence: the legislators justly concluding, that one of the most efficacious methods of deterring bad men from injurious acts is to preclude them from deriving any right or advantage from the injury. But it is a maxim which has no natural validity, when considered as independent of social institutions: for what are the circumstances which are naturally requisite to establish the transfer of a right from one person to another? These, and these only; that the possessor should have the power, and should signify his consent, to transfer it to the other party; and that the latter should have the power of accepting it, and should signify his acceptance. All these requisites exist in full force in the case under examination. The promiser being confessedly, notwithstanding his fear, in the possession of his faculties, and therefore a moral agent, has the power, and he expresses his consent, to transfer the right. The other party's injustice, be it ever so great, manifestly does not impair, nor has it any tendency to impair, his natural power of accepting the right; and he testifies his acceptance of it. The right therefore is transferred; the promise is binding.

His mental reservations, which did not appear, were as immaterial to the validity of the promise as if they had never existed. He knew that every thing was done which constitutes a promise^m; he knew that his consent was understood to be given, and that it was accepted by the other party. On the present plea, any voluntary engagement might be evaded, and any gift reclaimed. The promise under consideration was substantially made; why is it not faithfully performed?

3d. The promiser, it is finally asserted, is exempted from the obligation of performance by the principles which have been established in the preceding chapters: for it has there been proved, that every man has authority from God when self-defence requires, to deprive an aggressor of any of his possessions or

^m Dr. Ferguson (Institutes of Moral Philosophy, 2d ed. p. 189.) contends, that an extorted promise is not binding, because the promisee could not have a reasonable expectation of its performance being intended. Surely he did expect it to be performed, or why was he at the trouble of exacting it? Whether his expectations were reasonable or not, is a matter of no consequence; since they were known to the other party, who by his promise engaged to satisfy them.

endowments. The promiser therefore, even if he admits the other party to have originally acquired a right through his engagement, may yet withhold the thing promised, or may forcibly reclaim it if delivered; either the former ⁿ step being requisite for his self-defence, or the latter for his indemnification.

To this reasoning, which at first sight appears plausible, the following answer may be returned.

The promiser, it is granted, is naturally authorised to use all necessary force against an aggressor in defence of his rights, unless he be under an engagement to the contrary. But the thing which he has promised is no longer his right; he has made it the right of the promisee by his own transfer; and was aware that he was understood to resign all claim to it of every kind which he possessed before that transaction. Consequently he has no pretext for detaining it on the plea of self-defence, nor for resuming it on the ground of indemnification.

ⁿ Dr. Ferguson (p. 189, 2d edit.) alleges an argument of this kind.

The reasoning and the rules which have been applied in the present chapter to the case of promises, may with equal ease and propriety be transferred to the case of oaths. For oaths are in other words promises, in which a direct and open appeal is made to the Deity, calling upon him to punish the breach of the engagement: whereas in ordinary promises, the Deity is referred to only in that tacit and indirect manner, in which we habitually refer to him as the source of moral obligation, and the final judge of all moral conduct. This explanation of the nature of an oath evidently shews why the guilt of perjury is more heinous than that of common falsehood; but it also clearly points out the heinous guilt of the latter^o.

^o I am aware that I shall incur the charge of disorderly arrangement, by subjoining to an inquiry into the nature of engagements in general some observations relating to a particular engagement, instituted in a particular country. Yet it is at all times useful to illustrate moral rules by applying them to cases actually existing. I have already exemplified this practice in a former chapter, where I applied the principles there laid down to the African Slave Trade. And as it is undeniably of great importance that just sentiments should be entertained respecting the meaning of subscription to the thirty-nine articles, and as the opinion which Mr. Paley maintains on the subject appears

appears to me not only unsupported by argument but likely to be productive of consequences highly pernicious; I trust the reader will pardon a deviation from the strictness of method.

Mr. Paley having previously observed, in conformity to his rule for the interpretation of promises, a rule perfectly just, and already quoted by me in this chapter, that the "*animus imponentis*" indicates the sense in which the articles are to be subscribed, affirms, p. 219, that "the legislature of the 13th Eliz. is "the imposer."

The latter position is fundamentally erroneous.

The *present* legislature of this country, which, by forbearing to exercise its acknowledged power of repealing the act of 13th Eliz. sanctions and enforces that act, is the imposer of subscription on the existing generation; and it is consequently the intention of the present legislature which the subscriber is bound to satisfy,

That subscription may be justified without an actual belief of each of the articles, as I understand Mr. Paley afterwards to intimate, is a gratuitous assumption. On this point the articles speak for themselves. Why is an article continued in its place if it be not meant to be believed? If one may be signed without being believed, why may not all? By what criterion are we to distinguish those which may be subscribed by a person who thinks them false, from those which may not? Is not the present mode of subscription virtually the same as if each article were separately offered to the subscriber? And in that case could any man be justified in subscribing one which he disbelieved? These are questions which should
be

be fairly considered and satisfactorily answered, before any one can conscientiously use the latitude offered to him by Mr. Paley's explanation.

No circumstance could have a more direct tendency to ensnare the consciences of the clergy, no circumstance could afford the enemies of the established church a more advantageous occasion of charging her ministers with insincerity, than the admission of a vague opinion that the articles may safely be subscribed without a conviction of their truth, taken severally as well as collectively. That opinion I have seen maintained in publications of inferior note ; but it was with surprise and concern that I beheld it avowed by a writer of such authority as Mr. Paley.

It is possible that some of the articles may be worded in such a manner, as to be fairly interpreted in a sense not only not foreseen or intended by the original imposers, but opposite to the opinions entertained by them respecting the doctrines in question. Yet, should the case be so, such articles may be subscribed in this sense with a safe conscience, if there is sufficient reason to believe the present imposers satisfied with that subscription.

If the terms, in which any of the articles are expressed, may be fairly interpreted in more senses than one ; and if it be a known fact that the generality of subscribers concur in one particular interpretation ; that interpretation, especially if it has for a very considerable time been usually received, may at least be deemed one of the senses, if not the exclusive sense, in which assent is required by the legislature : for if it were not, the legislature, it may be presumed, would have altered the articles, or have pointed
out

out the precise meaning in which it designed them to be understood.

It is, however, no easy task to prove the expediency and propriety of continuing an article, which may be subscribed in opposite or in discordant senses.

C H A P. XI.

GENERAL REVIEW OF THE NATURAL RIGHTS AND
OBLIGATIONS OF MEN.

It has been stated heretofore, that by a right I mean authority from God for the enjoyment of any particular thing, or for the performance of any particular action; that is to say, such authority to enjoy the thing, and to perform the action, as excludes the right of interference on the part of other men.

It was also observed that the term right is occasionally used, in compliance with custom, to denote what is in strictness of speech the object of a right; as when it is said that life is one of the rights of man.

By natural rights are meant those rights which an individual possesses independently of the institution of civil society.

These

These rights, for the sake of perspicuity, I shall here enumerate, referring to the preceding chapters for particular observations respecting each.

Every individual naturally possesses

A right to life.

A right to freedom from personal injury and from personal restraint.

A right to appropriate to himself such a portion of the unappropriated productions of the earth, and such a portion of unappropriated land, as is necessary for his comfortable subsistence. The scriptures give him a similar right over animals.

A right to accept from others, and appropriate to himself, such rights as they are authorised to transfer to him.

A right to defend any of the rights of himself, or of those under his protection,

tion, against an aggressor by the use of all requisite force in opposition to him; either by resisting his attacks, or by making the first attack upon him; or by inflicting punishment on him; so far, and so far only, as is necessary for such defence.

A right, in cases of injury sustained by himself, or by those whom he protects, to exact restitution, or indemnification, from the aggressor, by the use of all necessary force against him.

Lastly. A right to waive, to abridge, or to alienate, any of his rights at his own discretion; except such as he may himself have acquired under an express or implied condition to the contrary, or may have subjected to such a condition afterwards.

These are the natural rights of men, who do not labour under a physical incapacity of understanding, and fulfilling the purposes of human existence. The peculiar restrictions to which persons of the opposite description

Q

are

are naturally subject, and the consequent rights which others possess over them, have been stated in the third chapter.

Right and obligation are correlative terms. Wherever any individual has a right, all others are under an obligation not to make an attack upon it. In every such case they are under a special obligation both to God and to the owner of the right; for obedience is due to God who conferred the right; and every man is entitled to freedom from injury. But the original obligation which each individual is under to exercise and dispose of his own rights in such a manner as may best promote the purposes of his being, is an obligation to God alone.

No circumstance has more materially contributed to introduce confusion into moral reasoning than the various and even hostile significations in which the word right has unfortunately been employed. Not in conversation only, but in books of repute, expressions like the following are common: "It is right that you should relieve a beggar"—"I have a right to refuse, if I think

“ think fit ” — “ The Almighty has a right
 “ to your constant obedience ” — “ I have a
 “ right to squander away my estate, though
 “ I know it will displease him. ” There is
 a sense in which each of these positions is
 true ; but it is evident, that if such a sense is
 to be found for each of them, it must be found
 by taking the word right in various accep-
 tations. Were that word used in all of the
 sentences in question, according to one clear
 and precise definition, they would manifestly
 involve positive contradictions. One prin-
 cipal source of these inconsistencies has been
 the injudicious practice of moralists, in divid-
 ing rights into two kinds, which they have
 termed perfect and imperfect. This division
 I have rejected, as being radically indefensible
 and groundless, and a source of continual
 and important errors. Under the title per-
 fect, all rights whatever were in fact com-
 prehended. Those denominated imperfect,
 were not rights, according to any consistent
 definition of that term. If I were told by a
 moral philosopher, that a person in distress
 had a right to my charity, I should admit
 that he might have good reasons for presuming

that I should relieve him ; because he might reasonably expect that I should cheerfully employ the gifts which God had bestowed upon me, in a manner so conformable to the will of the donor : but I should deny that he had a *right* to that assistance from me which my Creator gave me authority to confer or to withhold at my discretion ; an authority for the due exercise of which I am answerable to him alone.

The same argument would apply with equal force to all other *reasonable expectations*. The name of reasonable expectations, is in truth the strongest appellation which can be given to the supposed claims, which have been erroneously termed imperfect rights.

The introduction of imperfect rights was necessarily followed by a train of imperfect obligations. These, of course, rest on the same unsubstantial foundation with the supposed rights to which they correspond. Thus, I am under no obligation to a beggar to relieve him, because he has no right to my
6 assistance.

assistance. My obedience is due to God; and therefore I am under an obligation to God to relieve the beggar, if I think upon the whole that it is the divine will that I should. But this is a point which I am to decide for myself; and, in making the decision, it is my own conscience alone, and not the beggar's expectations, which I am bound to satisfy.

Mr. Paley adopts the division of rights and obligations into perfect and imperfect, though apparently against his better judgement^a. He also affirms, in conformity to his general principle, that "perfect rights can only be distinguished by their value^b." It should seem, according to this position, that a candidate at an election, who merits the vacant seat, and thinks the possession of it as valuable to him as one of his estates, has as truly a perfect right to the former as he has to the latter. If this and other necessary consequences of the rule should be contradicted by some parts of Mr. Paley's work, that

^a Paley, Vol. I. Page 91.

^b Vol. II. Page 3.

circumstance, far from obviating the arguments against the rule itself, will only shew at what opposite conclusions the most acute reasoner will arrive, who takes general expediency for his guide.

P A R T III.

APPLICATION OF THE PRINCIPLES WHICH
HAVE BEEN ESTABLISHED TO THE CON-
STITUTION OF CIVIL SOCIETY.

C H A P. I.

THE TRUE GROUNDS OF CIVIL OBEDIENCE EXPLAINED.—
ERRONEOUS NOTIONS REFUTED.

WHATEVER opinions may have been prevalent under the reign of the Stuarts, I apprehend that no intelligent Englishman, who shall have perused Mr. Paley's very satisfactory chapter "on the duty of Civil Obedience as stated in the Christian Scriptures," will hesitate to admit that author's conclusion: "That, as to the *extent* of our civil rights and obligations, Christianity hath left us where she found us; that she hath neither

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" altered

“ altered nor ascertained it; that the New
 “ Testament contains not one passage which,
 “ fairly interpreted, affords either argument
 “ or objection applicable to any conclusions
 “ upon the subject, that are deduced from
 “ the law and religion of Nature.”

This fundamental point being determined, I must recall the reader's attention to a proposition, the truth of which has already been proved: That in no cases except the following is any person authorised to deprive another of the gifts of God, or to restrain him in the enjoyment of them.

1st. When he proceeds to such deprivation or restraint in consequence of immediate inspiration from God.

2ndly. Or in consequence of its being necessary for the defence of himself, or of some person under his protection, against the unauthorised attempts of the other party.

3dly. Or in consequence of the consent of the individual thus deprived or restrained^a.

^a See Part II. Chap. II.

I. Since there is no apparent probability that, in the present period of the world, inspiration will interpose to define the rights of governors and the duties of subjects; and since, if it should interpose, the only line of conduct to be adopted would be implicit submission; the first of the preceding cases does not require further illustration.

II. The force, exercised in consequence of the necessity stated in the second case, is justifiable only to the extent and during the continuance of that necessity. Situations may arise in which, on the plea of this necessity, an aggressor may justly be reduced to the alternative of undergoing the punishment which he has deservedly incurred, or of entering into civil society with his opponent; and in like manner a conquered country may be led to connect itself with the victorious state. And in a few scattered instances that assertion may possibly be true, which ambition has always in its mouth as a plea for encroachments; namely, that the union of the conquered state with its neighbour is the only method which can give reasonable security to the latter against further aggressions justly apprehended from
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the former. It is also possible that an unjust attack may influence the weaker party to accede to a similar union with the oppressor. In the first and third however of these cases, the consent of the vanquished, though extorted, is the circumstance which lays them under the social obligation; for it was in their option either to endure extremities, or to submit to the terms proposed. In the second case which was stated, the submission of the vanquished country is founded, in the first instance, on just coercion: and the same coercion may justly be continued as long as the only cause which will justify it remains; that is to say, as long as there continue to be sufficient grounds for apprehending further unjust attacks from the subjugated party. But when those grounds no longer exist, the right of compulsory dominion, which was founded on them, ceases also; and therefore the subsequent exercise of dominion cannot be justified, unless the inhabitants of the originally subjugated country authorise it by consent expressed or implied. Now it is by no means likely that those primary grounds of dominion, of which we have been speaking, should subsist very long. For it is not probable that both
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the desire and the power of making unjust attacks on its neighbour should subsist from generation to generation in the district in question, in such a degree, as would justify the other party in holding that district in a state of political slavery; and such is the state of compulsory submission, however wise and equitable may be the particular form of government maintained by that compulsion. At any rate however one point, and it is the main point with which we are concerned in the present enquiry, is evident; namely, that with whatever justice the plea of compulsory dominion now investigated may be alleged in any particular instance, it is a plea which can refer only to the case of an independent country or district, constrained to admit the control of an injured neighbour. It is a plea which in the nature of things is totally irrelevant to the case of a nation considered collectively, on the one hand, as opposed to the persons to whom it has delegated the powers of government, on the other; and therefore can never be applied to the decision of contests between a nation and its individual rulers respecting the right of the latter to the exercise of power.

III. There-

III. Therefore, speaking generally, the only just foundation of civil government is the consent of the governed.

As this conclusion immediately and incontestably follows from principles, the validity of which has been established in the preceding pages, it cannot be necessary to enter into a prolix refutation of the various unsubstantial pleas on which governors, in different ages and different parts of the world, have rested their claim to dominion. Yet, on account of the importance of the subject, it may not be useless to return a short and distinct answer to such of those pleas as have been most commonly maintained in theory or in practice.

If the governor, like some of the Eastern despots, rests his claim on the superior dignity of his own nature, or on a plea seemingly countenanced by some writers, the possession of a certain transcendancy of genius calculated and as it were naturally destined to command, and thence infers that he has a right to compel his fellow-creatures to obey, for the purpose of promoting either his happiness or their
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own; what reply shall we give to an argument, which, if it were solid, would authorise every man to enslave his less enlightened neighbour, and would justify a Newton in seizing the sovereignty of the world? We may recur to that train of reasoning, by which it has been already proved that no man would be authorised, on the plea of promoting the happiness either of himself or of another, even if the object could certainly be attained, forcibly to restrain an unoffending individual in the use of the gifts bestowed on him by his Maker.

The position that some men are naturally entitled to the exercise of dominion, and others prohibited from refusing obedience, independently of any direct or virtual contract between the parties themselves, has been in all ages the most strenuously defended by those, who have expected to reap credit or advantage from the establishment of it; and it has been maintained at various periods under various forms, respectively suited to the genius of its partizans, and the prejudices of the times. The prince of the ancient philosophers pronounced that Nature had destined the barbarians

barians to be slaves. And all were barbarians who were not Greeks. The ruder nations of succeeding ages, more prone to the impulse of headlong valour, than disposed to the subtleties of metaphysical disquisition, averred that all things were open to military prowess, and that the gods confirmed the title of the victors. Modern authors, who have undertaken to vindicate the opinion in question, have in ^b general abandoned the modes of defence traced out to them by the selfish arrogance of the Grecian, and the wild ferocity of the Goths, and have alleged arguments in its favor more congenial to their own prepossessions, and to those of their countrymen and cotemporaries : sometimes founded on the misinterpretation or perversion of scripture; sometimes on erroneous inferences drawn from reason and philosophy. To the former

^b The language publicly held by several advocates for the African Slave-Trade, who have not scrupled to pronounce the negroes a race inferior to Europeans and created to be their slaves, obliges me to speak with some reservation. Similar opinions were delivered in the sixteenth century by many Spanish ecclesiastics respecting the natives of the newly discovered islands of America. See Dr. Robertson's History of America, 4th ed. Vol. I. P. 265, and 284.

class of writers may be referred those, who have contended for the civil or spiritual supremacy of the Pope, and for the extravagant dominion which has been claimed by ecclesiastics over the laity ; those who, on the ground of some expressions in the New Testament, have upheld the doctrine of divine right on the part of sovereigns, and passive obedience on that of their subjects ; and those who, scarcely attempting to unite the disjointed links in the chain of their reasoning, have asserted, that kings are entitled to unlimited power in consequence of the pre-eminent authority, with which they suppose our common forefather Adam to have been invested. Happily these doctrines are all so generally exploded as not to require a particular discussion in this place. To the second class of writers mentioned above, belong those who found the right of one man, or of one set of men, to exact obedience from others solely on hereditary claims and ancient customs ; on the mere ground of conquest and forcible possession ; on references to general utility ; or on a simple attention to local expediency.

The right of exercising government over
others,

others, independently of any consent on their part, for the sake of local expediency, or in other words of making them happy, has been already considered.

Should assumed dominion be vindicated on the grounds of general expediency, the ground on which Mr. Paley founds every right of the civil governor, I shall only observe that, if this plea has not already been abundantly overthrown, I must despair of alleging any satisfactory argument against it.

Perhaps the claim is rested on the ground of conquest or captivity. These grounds have in fact been considered a few pages back. If the war was not undertaken by the victors either in the just defence of themselves, or of others under their protection, it was an unauthorized attack on their opponents; and mere success in such an attack gives the conqueror no right to impose forcible restraints on his vanquished or captive antagonist. If the latter, presented only with a choice of evils, agrees to acknowledge the authority of his too fortunate enemy, the governor has then acquired a right to enforce submission; but he
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has acquired it from the consent of his subject. Until that consent is expressly or impliedly given, the pretended sovereign is an usurper; and has no better title to the fruits of his conquest than an highwayman has to his booty. If the war was originally just, the conqueror has a right to exercise dominion over the defeated party, so far as is necessary to insure to himself indemnification for the injuries already sustained, and security from any further violence which he believes to be meditated. After the attainment of these purposes, consent alone, investing him with civil authority, can authorise the continuance of his jurisdiction.

Sovereignty exercised on the grounds of hereditary claims and ancient custom, almost always implies the consent of the governed. If it were exercised without having ever received the sanction of their consent, it would be no other than forcible possession. The total insufficiency, in point of justice, of such possession to establish a real title to sovereignty has been exposed already.

But perhaps the governor grounds his claim to sovereignty on the single circum-

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stance of the individual, whose obedience he requires, having been born within his territories. At the present day, and in this enlightened part of Europe, he cannot surely mean to have the claim understood according to the exploded notions of feudal vassalage. He cannot mean to imply that man is attached, like a tree, to the spot of land on which he is originally placed; that he is an appendage inseparable from the soil, and necessarily subject to the same restrictions. He must confess that God has bestowed upon every man certain natural rights, in whatever region he may chance to pass the first moments of his existence; and must explain his claim to imply, that the constitution of the country entitles him to allegiance from every person born within the limits of its jurisdiction. How then has the individual in question lost his natural right to freedom? Has he forfeited it by his crimes? That is not pretended; the claim of allegiance embraces alike the innocent and the guilty. In what manner therefore have the constitution and laws of the country acquired authority to control his original rights? These rights, until he arrived at

such an age as to be entitled to act wholly for himself, were to a certain degree at the disposal of his parents or protectors : but when that period is arrived are they not absolutely his own by the gift of God ? By the gift of God they are absolutely his own ; and as long as he abstains from invading the rights of others, no person whatever can claim any jurisdiction over him, until it be sanctioned by his express or implied consent.

C H A P. II.

ORIGIN OF CIVIL GOVERNMENT.

“ GOVERNMENT at first was either patriarchal or military; that of a parent over his family, or of a commander over his fellow-warriors.”

Were I to undertake the defence and illustration of this position stated by Mr. Paley, I could not accomplish my design in any method so effectual, as by transcribing his own very accurate discussion of the subject. I will not, by abridging his remarks, exhibit them to disadvantage; nor should I dwell on this topic, were it not for the purpose of shewing that the rights of civil government appear from Mr. Paley's account of their origin to have been actually established on consent alone: a circumstance not a little unfavourable to his subsequent reasoning, in which he continually appeals to fact and experience in support of his own system.

^a Paley, Vol. II. Page 111.

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Having alluded to the rights which parents naturally possess over their children, previously to their arrival at years of discretion, Mr. Paley observes, that "a parent^b would retain a considerable part of his authority after his children were grown up, and had formed families of their own. The obedience, of which they remembered not the beginning, would be considered as natural; and would scarcely during the parent's life be entirely or abruptly withdrawn." These words imply that the children, when grown up, were at liberty to withdraw their obedience, had they thought proper to take this step. And this inference is confirmed by Mr. Paley's observations on the rights and duties of parents in another part^c of his work; wherein he concludes that the former owe their origin and validity to the latter; and that the right of coercion exists no longer than it is necessary for the purpose of enabling the parent to ensure the welfare of his child, as yet too young to provide for himself. Of course, when that period is elapsed, all further subjection on the part of the child must be voluntary.

^b Page 112. Vol. II. ^c Page 368. Vol. I.

That the successor of the parent derives his authority solely from the consent of the other members of the society, Mr. Paley evidently allows; since he describes him as ^d appointed to his office by their own "formal choice," or by a "willing transfer" of their obedience, encouraged perhaps by motives of respect for their first ancestor.

That the military chief owes his ^e appointment to the consent of his fellow-warriors is a fact sufficiently obvious.

Lastly. The causes which Mr. Paley enumerates ^f as having given rise to the rule of hereditary succession, are all of them motives by which the members of a community would be induced to establish that rule by consent; but they do not, either singly or collectively, afford an argument to prove that by any other means than consent the establishment could justly have taken place. And as Mr. Paley's own statements have proved that civil government, whether administered by the parent, by the person appointed after his

^d P. 113.^e P. 114.^f P. 115, 116.

death to supply his place, or by the military chieftain, was founded in fact on the consent of the party governed; it would be absurd to suppose that the establishment of a line of hereditary successors to any of these governors could have any other foundation.

C H A P. III.

EXAMINATION OF SOME OF MR. PALEY'S OBJECTIONS
TO THE ESTABLISHMENT OF CIVIL OBEDIENCE ON
THE CONSENT OF THE GOVERNED.

THOUGH I apprehend it to have been clearly proved, that the consent of the subject is the only just foundation on which civil government can be established; yet the authority of Mr. Paley, who totally rejects this doctrine, is such as to entitle the particular arguments which he urges against it to distinct consideration. I shall enter into an examination of them with the greater willingness, as in the course of it I shall have an opportunity of making some remarks, which may tend to elucidate the true nature of social polity.

The theory, against which Mr. Paley immediately directs his attack, is a theory which I think by no means unobjectionable. I shall proceed to separate those parts of it which are indefensible from those which appear to rest on immovable foundations; after premising that

that it is not this theory alone, but every theory which grounds civil obedience on the consent of the subject, that Mr. Paley labours to explode. He ^a rejects "the intervention of
 " a compact as unfounded in its principle, and
 " dangerous in the application;" and substitutes ^b "public expediency in the place of all
 " implied compacts, promises, or conventions
 " whatsoever."

Mr. Paley observes that the compact, which Mr. Locke and other political writers affirm to subsist between the citizen and the state, is twofold.

" First^c: An *express* compact by the primitive founders of the state, who are supposed to have convened for the declared purpose of settling the terms of their political union, and a future constitution of government. The whole body is supposed, in the first place, to have unanimously consented to be bound by the resolutions of the majority; that majority, in the next place, to have fixed certain fundamental regula-

^a Paley, Vol. II. P. 141.

^b P. 143.

^c P. 130.

" tions ;

" tions; and then to have constituted, either
 " in one person or in an assembly (the rule
 " of succession or appointment being at the
 " same time determined) a *standing legislature*,
 " to whom, under these pre-established restric-
 " tions, the government of the state was thence-
 " forward committed; and whose laws, the
 " several members of the convention were, by
 " their first undertaking, thus personally en-
 " gaged to obey. This transaction is some-
 " times called the *social compact*; and these
 " supposed original regulations compose what
 " are meant by the *constitution*, the *fundamen-
 " tal laws of the constitution*; and form on one
 " side the *inherent indefeasible prerogative* of
 " the crown, and on the other the *unalienable
 " birth-right* of the subject."

" Secondly. A *tacit* or *implied* compact,
 " by all succeeding members of the state, who,
 " by accepting its protection, consent to be
 " bound by its laws; in like manner, as who-
 " ever *voluntarily enters* into a private society
 " is understood without any other or more ex-
 " plicit stipulation, to promise a conformity
 " with the rules, and obedience to the govern-
 " ment, of that society, as the known condi-
 " tions

“ tions upon which he is admitted to a parti-
 “ cipation of its privileges.”

“ This account of the subject, although spe-
 “ cious, and patronised by names the most
 “ respectable, appears to labour under the
 “ following objections; that it is founded
 “ upon a supposition, false in fact, and lead-
 “ ing to dangerous conclusions.”

In support of his objections, Mr. Paley proceeds, in the first place, to contest the existence of the *express* compact stated and described above. He observes^d that “ no
 “ social compact, similar to what is here de-
 “ scribed, was ever made or entered into in
 “ reality; no such original convention of the
 “ people was ever actually held, or in any
 “ country could be held, antecedent to the
 “ existence of civil government in that coun-
 “ try.

“ It is to suppose it possible to call savages
 “ out of caves and deserts, to deliberate and
 “ vote upon topics, which the experience,
 “ and studies, and refinements, of civil life

^d Page 132.

“ alone

"alone suggest. Therefore no government
 "in the universe *began* from this original."

Afterwards Mr. Paley adds, in reply to those who propose this original compact, "not * as
 "a fact, but as a fiction, which furnishes a
 "commodious explication of the mutual
 "rights and duties of sovereigns and sub-
 "jects," that, "if it be not a fact, it is
 "nothing; can confer no actual authority
 "upon laws or magistrates; nor afford any
 "foundation to rights, which are supposed
 "to be real and existing."

The utter impossibility of repelling this formidable attack on the existence and efficacy of Mr. Locke's *original* compact I do not hesitate to acknowledge. I admit that no such compact ever did or could exist in any country: that no government in the world has been thus established; and that a supposed fictitious compact can never create a substantial right. But I must also remark, that the existence or non-existence of this original compact is a matter of perfect indifference to

my argument; and a speculation wholly unimportant to the present members of any society. It has already been shewn, that every man is originally possessed of various rights by the immediate gift of God; rights which no stipulations of his ancestors can shackle and abridge, since no earthly power can justly invade the gifts which any man has received from God, until he has consented to resign them, or has forfeited them by his crimes. His birthright is not unalienable; but it is alienable only by himself. If therefore such an original compact had ever taken place, it would not have been obligatory on succeeding generations. They in their turn would enjoy from their Maker's bounty the same liberty with which their forefathers were endowed, of instituting such a form of government as they should deem for their advantage; of imposing on their native freedom whatever additional restraints, unknown to their ancestors, should appear conducive to the common good; and of modelling, of curtailng, and of annihilating, whatever had been termed the inherent and inextinguishable prerogative of the crown.

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Mr. Paley, in the next place, points his artillery against the *implied* compact. “ f The
 “ native subjects, he observes, of modern states
 “ are not conscious of any stipulation with
 “ their sovereigns; of ever exercising an elec-
 “ tion whether they will be bound or not by
 “ the acts of the legislature; of any alterna-
 “ tive being proposed to their choice; of a
 “ promise either required or given; nor do
 “ they apprehend that the validity or authority
 “ of the laws depends at all upon their recog-
 “ nition or consent. In all stipulations,
 “ whether they be expressed or implied,
 “ private or public, formal or constructive,
 “ the parties stipulating must both possess
 “ the liberty of assent and refusal, and also
 “ be conscious of this liberty; which cannot
 “ with truth be affirmed of the subjects of
 “ civil government, as government is now
 “ or ever g was actually administered. This
 “ is a defect which no arguments can excuse
 “ or supply; all presumptions of consent,

f Page 136.

g It is obvious that this assertion is incompatible with those parts of Mr. Paley's Chapter on the Origin of Civil Government which have been recently quoted and considered.

“ without

“ without this consciousness, or in opposition
 “ to it, are vain and erroneous.”

If we should admit Mr. Paley's statements in this extract to be accurate in their utmost latitude, they would shew that government has not *in fact* been established on the principle of the subject having given his consent; but they do not afford the shadow of an argument to prove that it can *justly* be established on any other principle: they contain not a single expression which may lead to prove a *right* in a civil governor to exact obedience, without having previously obtained the express or implied consent of the governed. I might therefore dismiss the objection, as totally irrelevant in an inquiry into the just foundation of civil government. In politics, as in all subjects, it is the business of the moralist to ascertain the right, not to settle the fact. And that these may be very far removed from each other in the case of politics, Mr. Paley, in some parts of his work, has shewn himself sufficiently aware ^h.

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^h See the whole of the second chapter of book the sixth, and the first paragraph of chapter the third of the same

But these positions of Mr. Paley, if understood in that extent which the words seem naturally to imply, do not give an adequate representation of the case as it really exists. With respect to our own government in particular, the fact is in many instances the reverse of the preceding description. Not only our ablest political writers inculcate the doctrine of civil government originating from the consent of the governed; not only the public speakers in both houses of parliament, however numerous, and however essential the topics may be on which they differ, universally concur in vindicating the native right of the people to frame their own system of government, and thereby at once manifest and guide the general opinion of the nation; but almost every subject of the realm is apprized that the sovereign at his coronation

same book. In particular, Mr. Paley expressly states, in the first of those two chapters (Vol. II. P. 122.) *Prescription* to be in fact the foundation of most rights, perhaps of every right, in the apprehension of the multitude; yet does not seem to think his own theory, that general expediency is the only just foundation of all rights, invalidated thereby. Why then is the want of the support of fact, should such support be wanting, to be urged against another theory of right?

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binds himself by a solemn oath to observe certain stipulations, imposed on the part of his subjects to mark the limits of his power; and believes that the wilful violation of them would absolve him from allegiance. This principle is so well understood by Englishmen, and the signal recognition of it at the period of the Revolution has received such general applause, that few could be selected even from the lowest and most unenlightened classes, who would not think themselves released on this very principle from the obligation of obedience (however necessity might finally constrain, or personal motives lead them to acquiesce), if their monarch were forcibly to establish the Roman catholic religion, or to transfer his dominions as a province to France. The preceding observations may be applied, in a greater or a less degree, to most, if not to all, European governments.

Further, it may be observed, with respect to most states in this part of the world, and particularly concerning our own, that every man is conscious that if he continues in the dominions of the state he must submit to its laws; and consequently by this continuance

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he tacitly and decidedly consents to obey themⁱ. And his consent is accepted by the state through the medium of the laws, which describe what persons shall be considered as subjects. Whether he is aware of the contents of all, or of any, of these laws is a matter of no consequence. My reader considers himself as under a general obligation to submit to the present laws of the land, though perhaps there are few among them with which he is accurately acquainted.

But it may be said, numbers are little informed, or totally ignorant, respecting their original rights, and obey without consideration. Undoubtedly it must be owned that government is a system too complex, and too far removed from the common apprehension of the crowd, to make it possible that in any

ⁱ Mr. Paley, p. 137, states that the writers in favour of the implied compact maintain that allegiance is more especially promised by the purchase and inheritance of lands. As I have not rested any part of my argument on the circumstance of holding lands (although a circumstance affording an open proof of the occupier conforming to the laws and consenting to be a member of the state), it is not necessary for me particularly to consider his remarks on that branch of the subject.

state it should be universally understood. The intelligent alone will have a complete insight into its principles and mechanism ; others, as they gradually descend in the scale of society, will entertain ideas more and more imperfect ; until perhaps, in the very lowest class, both knowledge and curiosity, with regard to the just grounds of submission, may be almost extinguished. Nor is this partial ignorance peculiar to the subject of government ; it prevails in a similar degree, and with consequences more to be lamented, with respect to religion. Yet neither in these, nor in any other examples, is any man divested of his native rights merely by the accidental circumstance of having lived in ignorance of them ; nor precluded from reclaiming, when he awakes from his trance, the boon which he has received from Heaven. The slave, who has neither surrendered his freedom by his consent, nor forfeited it by his crimes, retains his title to it sound and unimpaired, though he may have toiled for half a century insensible of the injustice of his bondage : as the Indian preserves his claim to the blessings purchased for him by the death of Christ, though

he never heard of the name or of the existence of his Redeemer.

As the subject is not divested of his natural rights by his ignorance of their existence, so neither is the state deprived of its title to his obedience by the circumstance of his having consented to obey on erroneous grounds, provided it has not in some very criminal manner contributed to create or to prolong his blindness.

But "if the ^k subject be bound only by his own consent, and if the voluntary abiding in a country be the proof and intimation of that consent; by what arguments," demands Mr. Paley, "shall we defend the right, which sovereigns universally assume, of prohibiting when they please the departure of their subjects out of the realm?"

I have advanced nothing which lays me under an obligation of defending every right assumed or exercised by sovereigns. The position, which I have undertaken to main-

^k Page 137.

tain, that the only just foundation of civil government is the consent of the subject, may be incontestably true, although the practice mentioned by Mr. Paley should be utterly indefensible. It may however be remarked, that if the state find it essentially requisite, for the purposes of justifiable self-defence, or the justifiable defence of other countries under its protection, to prohibit, either by a law enacted on the particular occasion, or by a discretionary power vested in the hands of a deputed legislature or chief magistrate, the departure of its subjects out of the realm, lest they should assist the enemy with intelligence, with their property, or with their personal service, the imposition of this restraint is a just exercise of an actual right; and it is a restraint which, under those circumstances, the state would be justified in imposing on every inhabitant of the realm, whether citizen or foreigner. The prohibition, whenever it is not requisite on the abovementioned grounds, cannot be vindicated. But, if justifiable self-defence require the general law, and its operation should accidentally detain a particular individual, who might safely have been permitted to depart; the state, if it be unable

to devise a test, whereby those persons whose departure would be compatible with its security may be ascertained, is no more culpable than he who should unintentionally wound a harmless passenger by discharging a pistol at an assassin. — It would be more obviously unreasonable to accuse the state of confining the subject, and of exacting obedience without his consent, if poverty, or an accidental circumstance of a similar nature, should prevent him from leaving the country. If a tenant find himself compelled to hold a farm against his will, by being unable to bear the expence of removal, or in consequence of having broken his leg; the landlord is not chargeable with detaining him, nor does he forfeit his titles to the rent.

“ Still ¹ less is it possible,” adds Mr. Paley,
 “ to reconcile with any idea of stipulation
 “ the practice, in which all European nations
 “ agree, of founding allegiance upon the cir-
 “ cumstance of nativity; that is, of claiming
 “ and treating as subjects all those who are
 “ born within the confines of their dominions,

¹ Page 136.

“ although

“ although removed to another country in
 “ their youth or infancy. In this instance
 “ certainly the state does not presume a
 “ compact.”

I must again observe, that this practice, and other practices of states, may be diametrically opposite to the position, that just government can be established only on consent, and yet that position may be true. What is right is often the reverse of what is fact. Thus numberless actions arise daily from motives the most depraved; yet obedience to God is the only just principle of conduct. I will not repeat the reflections contained in the preceding chapter, on the obligation of allegiance being founded on the circumstance of birth. I cannot however refrain from remarking, that the practice of executing as rebels those who are taken in arms against the country in which they were born, although they have been nurtured in a foreign realm from their earliest infancy, is to be vindicated on no plea, except on that of self-defence; and, without the strongest proofs of its being necessary for that purpose, cannot be rescued from the charge of barbarity and injustice.

CHAP. IV.

MR. PALEY'S REMAINING OBJECTIONS CONSIDERED.—
COMPARATIVE VIEW OF THE TWO SYSTEMS.

“ THE ^a theory of government, which
“ affirms the existence and the obligation of
“ a social compact, would, after all, merit little
“ discussion; and, however groundless and
“ unnecessary, should receive no opposition
“ from us, did it not appear to lead to conclu-
“ sions unfavourable to the improvement and
“ to the peace of human society.”

This is an observation which very naturally suggests itself to a moralist, who pronounces on the moral rectitude of every action, and the obligation of every duty, solely according to his ideas of utility. Mr. Paley, in support of his allegations, urges three additional objections to the doctrine of the rights of government being founded on the consent of the sub-

^a Page 138.

ject, designed to shew the pernicious consequences which, in his opinion, would ensue from admitting it. These objections I shall distinctly consider; but, previously to any examination of them, I must observe that, if the position against which their force is directed has already been proved by sound reasoning, not even a demonstration that its reception would be followed, as far as man can trace its influence, by undesirable effects would afford an argument against its truth.

Mr. Paley's first objection is couched in the following terms: " Upon ^b the supposition
 " that government was first erected by, and
 " that it derives all its just authority from
 " resolutions entered into by a convention of
 " the people, it is capable of being presumed
 " that many points were settled by that convention anterior to the establishment of
 " the subsisting legislature; and which the
 " legislature consequently has no right to alter
 " or interfere with. These points are called
 " the *fundamentals* of the constitution; and,
 " as it is impossible to determine how many

^b Page 138.

" or

“ or what they are, the suggesting of any
 “ such serves extremely to embarrass the de-
 “ liberations of the legislature, and affords a
 “ dangerous pretence for disputing the autho-
 “ rity of the laws.”

These arguments apply solely to the *original express* compact asserted by Mr. Locke, and others who have adopted the same idea. I have already denied the existence of any such compact; and have further endeavoured to shew, that, even if it had existed, the present generation could not have been divested of their natural rights by the mere private stipulations of their ancestors. I should not therefore have thought it necessary to quote the preceding paragraph, had it not been for the purpose of subjoining the obvious remark; that not one of the bad consequences enumerated therein can possibly flow from the position that an individual, by voluntarily continuing in the state, *impliedly* consents to submit to the existing laws, and thus confers on the community a title to his obedience.

Mr. Paley, in the second place, alleges
 that,

that, "if" it be by virtue of a compact that
 " the subject owes obedience to civil govern-
 " ment, it will follow that he ought to abide
 " by the form of government which he finds
 " established, be it ever so absurd or incon-
 " venient: he is bound by his bargain. It is
 " not permitted to any man to retreat from
 " his engagement merely because he finds the
 " performance disadvantageous, or because he
 " has an opportunity of entering into a better.
 " This law of contracts is universal."—" Re-
 " sistance to the *encroachments* of the supreme
 " magistrate may be justified upon this prin-
 " ciple; recourse to arms, for the purpose of
 " bringing about an amendment of the con-
 " stitution, never can."—" Despotism is the
 " constitution of many states; and while a
 " despotic prince exacts from his subjects the
 " most rigorous servitude, according to this
 " account, he is only holding them to their
 " agreement."

I give Mr. Paley's arguments in his own words, that they may appear with their utmost force. Their validity rests wholly on a

presumption that it necessarily follows, from the assertion of a compact, that, whenever an individual becomes a member of a community, he thereby engages to abide by the system of government which he finds established, as long as his governors shall abstain from encroachments. But, until Mr. Paley's hypothesis be substantiated, until it be proved to be really the fact in each particular case to which the argument is applied, his objection can have no real weight.

When an individual enters into a civil society, his implied promise to obey the laws necessarily supposes that he is also admitted to enjoy the rights of a citizen. It is given, not, in the first instance, to the prince or legislative body, but to the state at large ; and to the legislature only in virtue of its possessing the delegated authority of the state. The citizens of each community are the source and fountain of civil power ; for civil power, as we have proved, can be established on no just grounds except their original and previous consent : and their obligation to obedience is commensurate with the right which they have themselves created in the legislature
by

by a special grant of power, either express or implied. If therefore we admit, in the case of any particular government, that the legislature has not transgressed its appointed bounds; yet, unless it can be demonstrated that the citizens have at some particular period deprived themselves of their natural right of reclaiming at their discretion this deputed authority, by entering into an engagement that the grant shall be irrevocable; and unless it can be further shewn, that every succeeding member of the state has also bound himself by the same engagement; the whole of Mr. Paley's argument falls to the ground.

That these engagements may exist in a particular civil society is certainly true. But that they do *necessarily* exist in every civil society is not surely to be presumed as self-evident.

There is, in truth, no better reason for presuming that he, who, by voluntarily becoming a member of a community, gives the legislature a deputed power over him, does thereby engage never to resume the grant; than there would be for concluding that he,
 who

who takes a house at a certain rent, does thereby engage to hold it during his life on the same terms ; or that he, who voluntarily becomes the servant of another, does thereby contract never to quit his place, or to insist on making a fresh bargain, as long as his master uses him well, and pays him his present wages. Such extensive and permanent engagements can never be inferred from the existence of others of a limited nature ; they must be proved by unequivocal stipulation.

Mr. Paley in the third place argues in the following manner : “ Every ^d violation of the
 “ compact on the part of the governor re-
 “ leases the subject from his allegiance, and
 “ dissolves the government. I do not perceive
 “ how we can avoid this consequence, if we
 “ found the duty of allegiance upon compact,
 “ and confess any analogy between the social
 “ compact and other contracts. In private
 “ contracts, the violation or non-performance
 “ of the conditions by one of the parties va-
 “ cates the obligation of the other. Now the
 “ terms and articles of the social compact

^d Page 140.

“ being

“ being no where extant or expressed ; the
 “ rights and offices of the administrator of an
 “ empire being so many and various ; the
 “ imaginary and controverted line of his pre-
 “ rogative being so liable to be overstepped
 “ in one part or other of it ; the position
 “ that every such transgression amounts to a
 “ forfeiture of the government, and conse-
 “ quently authorises the people to withdraw
 “ their obedience, and provide for themselves
 “ by a new settlement, would endanger the
 “ stability of every political fabric in the
 “ world ; and has, in fact, always supplied
 “ the disaffected with a topic of seditious
 “ declamation. If occasions have arisen in
 “ which this plea has been resorted to with
 “ justice and success, they have been occa-
 “ sions in which a revolution was defensible
 “ upon other and plainer principles : the plea
 “ itself is at all times captious and unsafe.”

That every wilful violation of the compact
 on the part of government would authorise
 the people to withdraw their obedience, sup-
 posing them not to have the right independ-
 ently of such violation, I admit, speaking
 generally, to be true. In the first place, how-
 ever,

ever, it may be observed, that as in the case of a private contract between two individuals, notwithstanding the general rule that “ the “ violation or non-performance of the conditions by one of the parties vacates the “ obligation of the other,” it may be further stipulated, or it may be tacitly but unequivocally understood between the parties, that not every breach of compact on the one side shall set the other at liberty, but only breaches of a certain kind or magnitude ; so a similar understanding may clearly exist in a compact between a nation and its rulers. And in the next place, even though it should be manifest in any particular instance, that no tacit condition of this kind was understood or implied, but that any the smallest violation of the agreement on the part of the governors would indisputably authorise the subjects, according both to the letter and the spirit of the bargain, to resume the delegated power ; yet that every such violation dissolves the government (as Mr. Paley asserts) is an inference which by no means necessarily follows, and an inference which is contradicted by the analogy of other contracts. If a private person appoints an agent, under certain stipulations, to manage his

his affairs for an unlimited time; and the latter, in a particular instance, should knowingly transgress the bounds of his power; it does not follow that his agency ceases from that moment. His employer has a right to displace him; but, if he passes over what has happened in silent acquiescence, the other continues in full possession of his office, and his future acts as agent are valid. This reasoning exactly applies to the situation of a governor and his subjects. He is their agent, with a prerogative by no means so indefinite as Mr. Paley seems to represent it, but determined by the known laws and usages of the land; and although he may have exercised unconstitutional authority, yet he does not thereby cease at once to be governor. The people, it is true, may discharge him from his office; but if they are induced by prudential considerations, or by reflections on human weakness, to refrain from deposing him, he continues to have the same title to obedience from every member of the state as he had previously to the commission of the crime for which he might have been stripped of his power.

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Mr.

Mr. Paley proceeds to point out seven inferences, which he affirms to be important, and to "result" from the substitution of public "expediency in the place of all implied compacts, promises, or conventions whatsoever." Without entering into a professed inquiry how far the whole of these consequences in their full extent are beneficial, I shall examine how far they are peculiar to Mr. Paley's system.

1st: "It may be as much a duty at one time to resist government, as it is at another to obey it; to wit, whenever more advantage will, in our opinion, accrue to the community from resistance than mischief."

The principle, on which I have endeavoured to establish the duty of submission, by no means excludes the duty of resistance. On that principle, subjects have a *right* to resist; not indeed, as Mr. Paley maintains, merely according to their ideas of expediency; but whenever the legislature exceeds the bounds of

the authority with which it is intrusted, or persists in retaining that authority without possessing, either by stipulation or acquiescence, the consent of the community. And it is the *duty* of subjects to exert that right, whenever they are persuaded that the purposes of their being, one of the most important of which is to promote the welfare of all orders of the state, will not be answered by forbearance as effectually as by resistance.

2dly: " The lawfulness of resistance, or
 " the lawfulness of a revolt, does not depend
 " alone upon the grievance which is sustained
 " or feared ; but also upon the probable ex-
 " pense and event of the contest."

This is the second of Mr. Paley's inferences, and together with it I shall consider the fourth; as the substance of both is the same, though clothed in different expressions.

" Not every invasion of the subject's rights,
 " or liberty, or of the constitution; not every
 " breach of promise or of oath ; not every
 " stretch of prerogative, abuse of power, or
 " neglect of duty by the chief magistrate,

“ or by the whole or any branch of the legislative body, justifies resistance ; unless these crimes draw after them public consequences of sufficient magnitude to outweigh the evils of civil disturbance.”

I must request the reader to recollect the distinction, which I have had frequent occasion to notice, between acts of duty to God and of justice to men. The preceding quotations from Mr. Paley, considered as referring only to actions of the former class, are perfectly compatible with the principle which I have asserted to be the only just foundation of government ; and are immediately deducible from the positions^f established in a former chapter of this treatise. The citizen who resists an usurper, or a tyrant, is guilty of a breach of duty towards God, if he resists when forbearance would equally have enabled him to accomplish the ends for which he was created ; and I have already observed, that to promote the happiness of others, and of those in particular with whom he is connected by natural or by social ties, is one of the most

^f Part II. Chap. IV.

important

important of those ends. They who concerted the Revolution would not have been guilty of the least injustice towards James, even though they had opposed him without having any prospect of success; but they would have flagrantly violated their duty to God, had they engaged in a hopeless or unpromising enterprise, which would necessarily have produced the calamities of a civil war, and probably might have riveted more strongly the fetters of their fellow-subjects.

3d: " Irregularity in the first foundation
 " of a state, or subsequent violence, fraud,
 " or injustice in getting possession of the
 " supreme power, are not sufficient reasons
 " for resistance, after the government is once
 " peaceably settled."

A peaceable settlement of the government proves that the subjects consent to the sovereignty of the prince on the throne, by whatever means he may have obtained possession of it. And they have in all cases a right to give this consent, except it has been alienated or forfeited by their own act. The

rule then is equally applicable, whether the right to govern be founded on consent or on expediency.

4th: The fourth of Mr. Paley's inferences has already been considered.

5th: "No usage, law, or authority whatever is so binding, that it need or ought to be continued, when it may be changed with advantage to the community."

It has been sufficiently shewn in the preceding pages, that every law, whether it relate to the family of the prince, the order of succession, the form and authority of the legislature, or the duties of the subject, is mutable at the will of the community; except as far as the members of the state have abridged, by particular stipulations, their natural right of altering the laws.

The rule thus limited is an immediate consequence of the position, which establishes the rights of governors on the consent of their subjects.

6th:

6th: Mr. Paley proceeds to deduce from the principle of expediency the reasons why a Frenchman is bound in conscience to bear many things from his king, to which an Englishman is not obliged to submit. If the principles which I have endeavoured to establish are true, the answer to an enquiry into the different obligations of the members of different communities will flow from an equally obvious and less objectionable source. The inhabitants of the whole world are severally endowed with the same natural rights; and the difference in the degrees of authority to which the monarchs of neighbouring countries are entitled, is created by a difference in the laws to which their respective subjects give their consent.

7th: " The interest of the whole society is
" binding upon every part of it."

This rule, if confined to the internal regulations of the society, is perfectly consistent with the positions which I have maintained. I have repeatedly stated, that few of the duties which an individual owes to God are of higher concern, than strenuous exertions for the wel-

fare of those with whom he is united by the ties of social connection ; and a similar conduct is in many cases required by strict justice. Yet however laudably his zeal may be exerted in enduring hardships, in submitting to losses, or in exposing himself to dangers for the sake of his fellow-subjects ; it must be scrupulously restrained to those cases, in which it will not be attended with a violation of the rights of other men.

As Mr. Paley professes to rest his most powerful objections to the doctrine, which ascribes the rights of governors to the consent of the subject, on the pernicious consequences with which he apprehends that doctrine necessarily to be burthened ; and recommends the principle on which he founds civil authority as peculiarly favourable to human happiness ; I shall state the characteristic features of the two systems. The reader will judge whether the respective representations be fairly drawn ; and will decide, whether the principle of expediency or of consent is the most favourable to the reasonable authority of government, and to the peace and welfare of the people.

I must

I must however previously and expressly remark, as I have already done on a similar ² occasion, that the validity of my preceding arguments can in no degree whatever depend on the conclusions which the reader may form respecting the points now about to be laid before him. If the grounds which Mr. Paley recommends as the basis of civil authority should, contrary to my expectations, be deemed more favourable to human happiness than the positions concerning government which I have endeavoured to establish, no inference can be derived from that circumstance in support of the former ; since in the first part of this treatise I have proved, that seeming expediency is not a criterion by which the truth of moral principles is to be tried. But if a practical application of Mr. Paley's rule of utility as the standard by which the rights and obligations of governors and subjects are to be decided would apparently diminish the amount of general happiness, that rule must be pronounced inadmissible and false, as leading to conclusions subversive of itself,

² See the two first pages of Chap. IV. Part I.

According to the positions which I have maintained, subjects have a right, not only to resist the legislature whenever it proceeds to an act of power unauthorized by the laws, but, further, to resume at any period the authority which they have delegated (unless they have entered into an unequivocal stipulation to the contrary), and to institute a new form of government, according to whatever plan they shall be inclined to adopt. These rights form a barrier against despotism, and afford ample scope for improvements in civil polity.

At the same time very powerful considerations, founded on moral duty, suggest themselves, which are naturally calculated to secure the sovereign power from the dangers of instability; and the community from the calamities, intestine discords, and civil wars, resulting from unnecessary attempts to effect a change in the constitution. Every subject is bound, as long as he continues a member of the state, to obey all such laws as the state has a right to enact, and determines to continue. And in estimating the propriety of resisting the encroachments of the magistrate, or of abetting any alteration in the form of government, he is highly criminal

nal in the sight of God, if a regard to the welfare of his fellow-subjects be not one of the motives which have a principal influence on his mind.

But, though the prosperity of his country must be one of the leading objects of his care as a member of civil society; he is bound, as a being accountable to his Maker, to abstain from all attempts to promote it at the expense of justice. He is to remember that the rights of others are as sacred as his own. This consideration will preserve him from being misled by erroneous conceptions of patriotism to support his governors in oppressive conduct towards foreign nations; it will preserve him from being deluded by mistaken ideas of allegiance to concur in acts of tyranny towards his fellow-citizens.

On Mr. Paley's principles, the subject must consider himself as having a right, and also as bound in point of duty, to resist the existing governors, whether usurpers or not, and to join in effecting a change in the constitution, then, and then only, when such steps will, in his opinion, conduce to the public welfare.

According

According to this position, however tyrannical, unjust, or impious the commands of government may be, if he^h should be ordered to destroy an innocent fellow-citizen; to ravage the territories of an ally; to embrace a religion which he knows to be idolatrous; in all these cases, if he conceives that compliance will promote general expediency, compliance is his duty. Nay, he would have no less merit in betraying his country, in setting fire to her dock-yards, or in blowing up her legislature, to promote the designs of a foreign invader, if he should imagine that such a deed would, on the whole, be productive of advantage to mankind, than if, with contrary sentiments, he had hazarded his life in the breach for her defence. In like manner

^h The reader will recollect what I have quoted from Mr. Paley, in a former part of this treatise, that in his opinion cases may arise in which general expediency will *actually* require *every* moral rule to be violated. Nor will he be unmindful that Mr. Paley's rule, which refers the inquirer merely to vague conjectures respecting future contingencies, must, from its nature, be most liable to be conceived, or represented, as justifying actions subversive of social happiness. (See Part I. Chapter IV.) The principles which have been maintained in the present treatise appear incomparably less exposed to misapplication or abuse.

he

he is to deem himself bound to violate every law, even any law which he has personally engaged by promise or by oath on no plea whatever to disobey; he is empowered, like Cade, to head a barbarous rebellion; like Felton, to murder the favourite of the monarch; like Damiens, to assassinate the monarch himself; whenever his passion or his fanaticism induces him to believe that these outrages will in the end be sanctioned by utility.

Nor is less latitude allowed by Mr. Paley to the discretion of the governor than to that of the subject. "The reasoningⁱ which deduces the authority of civil government from the will of God, and which collects that will from public expediency alone, binds us to the unreserved conclusion, that the jurisdiction of the magistrate is limited by no consideration but that of general utility: in plainer terms, that, whatever is the subject to be regulated, it is lawful for him to interfere, *whenever* his interference, in its general tendency, *appears*" (to the magistrate himself, as Mr. Paley af-

ⁱ Paley, Vol. II. P. 324.

terwards says^k expressly) “ to be conducive
 “ to the common interest.” He is there-
 fore authorised to violate at his discretion all
 the rights of his subjects, by whatever solemn
 engagements he may have bound himself to
 preserve them; he is obliged in conscience
 to trample on every law, human and divine,
 whenever such conduct is decidedly prompted
 by his notions of general expediency. If then
 he should be of opinion, that by assuming
 power in opposition to the will of the nation,
 and maintaining it by an army of mercenaries,
 he should promote the good of the people
 without impairing the happiness of mankind
 in general, he would feel himself completely
 justified in his usurpation. If he should also
 think that to lavish the blood of his subjects in
 a crusade, and to seize half their property to de-
 fray the charge of the enterprize, would be an
 additional advantage to them; he would do
 no more than his duty in turning a deaf ear
 to their remonstrances, and in enforcing sub-
 mission by the bayonet. Nay, though he
 should not be able to satisfy himself that these
 proceedings would be for the interest of his

^k Vol. II. P. 327.

people ;

people; yet if he should fancy that **GENERAL** good would in some way be promoted by them; or if he should endeavour to promote it by putting his subjects into the hand of a neighbouring potentate as vassals; by selling them for slaves to a company of foreign merchants; or by introducing among them Popery or Paganism, and enforcing its reception by inquisitorial persecution; in each of these instances, according to Mr. Paley's principle, he would regard himself as effectually meriting the gratitude of mankind, and the approbation of his God.

C H A P. V.

GENERAL APPLICATION OF THE WHOLE.

IN the distribution of those original rights, by the use and disposal of which the general purposes of human life are to be accomplished, the Creator of mankind appears from the preceding investigations to have beheld all his children with an impartial eye. On every individual exempted by maturity of age from the dominion of his parents, and endowed with that degree of reason which distinguishes the moral agent from the ideot and the lunatic ; he has equally conferred ^a certain specific rights,

^a The original equality of all men in certain natural rights is a truth which has of late become undeservedly obnoxious to many persons (and we cannot be surprised at the circumstance), on account of the conclusions which have been represented as flowing from it. Many of those inferences are totally unfounded, and altogether subversive of the peace and happiness of society. But their falsehood does not prove the principle to be false from which they are erroneously affirmed to be deducible. As well might
it

rights, anterior to human sanctions, and until they may fairly be deemed to have been resigned

it be inferred that our religion cannot be true, because it has been supposed to authorise persecution. The principle itself is not only found to pervade every bosom among rude and uncultivated tribes; but it approves itself to the researches of sober and enlightened reason, and is corroborated by the inspired dictates of revelation.

Sir William Blackstone, in his Commentaries on the Laws of England, maintains in decided terms the equality of all men in natural rights, whether born in civil society or not. "By the absolute rights of individuals we mean those which are so in their primary and strictest sense; such as would belong to their persons merely in a state of nature, and which every man is entitled to enjoy, whether out of society or in it."—"The principal aim of society is to protect individuals in the enjoyment of those absolute rights which were vested in them by the immutable laws of nature."—"Hence it follows that the first and primary end of human laws is to maintain and regulate these *absolute* rights of individuals. Such rights as are *social* and *relative* result from and are posterior to the formation of states and societies; so that to maintain and regulate these is clearly a subsequent consideration. And therefore the principal view of human laws is, or ought always to be, to explain, protect, and enforce such rights as are absolute."—"The absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing those measures which appear to him to be most desirable, are usually summed up in one general
U "appellation,

signed or forfeited by their possessor, not to be infringed without injustice by human authority. To the unrestrained employment of his

“ appellation, and denominated the natural liberty of
 “ mankind. This natural liberty consists properly in
 “ acting as one thinks fit, without any restraint or con-
 “ trol, unless by the law of nature; *being a right inherent*
 “ *in us by birth*, and one of the gifts of God to man at his
 “ creation, when he endued him with the faculty of
 “ free will.” Commentaries, 10th edition, Vol. I. P.
 123—125.

The unimpaired existence of these original rights, until they are forfeited or resigned by some act of the individual, is indeed so obvious a truth, that even in dark and superstitious ages it has been publicly recognised by men, who from their situation would be little inclined to acknowledge it. In the sixth century Pope Gregory the Great expressed himself thus: “ *Salubritèr agitur si homines, quos ab initio liberos natura protulit, et jus gentium jugo substituit servitutis, ei in quâ nati fuerant libertati manumittentis beneficio reddantur.*” Robertson’s History of Charles V. 8vo. 1782, Vol. I. P. 312. And in the fourteenth century Louis X. and his brother Philip issued ordinances opening with a declaration that *all men are by nature free-born*; and on that ground providing for the enfranchisement of slaves. Ibid. P. 48. The celebrated historian, from whom these extracts are taken, builds much of his reasoning respecting servitude on “ the doctrines which Christianity teaches concerning the original equality of mankind.” Ibid. P. 322.

bodily

bodily and mental powers in the acquisition of food, of materials for shelter and for clothing, and of any other unappropriated productions of the earth ; in defending himself when unjustly attacked ; in regaining what is unjustly withheld from him ; in exacting equitable security against future injuries ; in gratifying every inclination by the indulgence of which he neither invades nor endangers the rights of others : the native of the old world and of the new, the inhabitant of the tropical and of the polar regions, the fair-complexioned European and the sable African, the son of the slave and of the monarch, have naturally an equal title ; and a title independent of the private will and the public conventions of their ancestors or cotemporaries. It is by the exercise of these rights, or of other rights which are accepted in exchange for such of them as are resigned, that every man is to fulfil the various duties which his God requires at his hand. — By employing them in a manner prejudicial to himself ; by neglecting or refusing to exert or even to surrender them for the benefit of others, he may incur the highest degree of guilt in the eyes of his Creator and Judge, although he should scrupulously

abstain from violating the rights of his neighbour. Yet the use and disposal of them being committed to his own discretion, (a discretion for the exercise of which he is finally responsible to God,) under the single limitation of refraining from every degree of injustice ; no earthly power is entitled to deprive him of them, while he adheres to that fundamental restriction, without the sanction of his express or implied consent.

It is true that the capacity of exerting these original rights, and of deriving from them the advantages which they seem calculated to afford to their possessors is allotted to different men in different degrees. Numbers, in consequence of the place or time of their birth, their bodily constitution, the condition of their parents, and a variety of other external circumstances not resulting from their own conduct, find even the necessaries of life difficult, and its ordinary comforts scarcely possible to be procured ; are unacquainted, if not with the bare possession, yet with the common fruits of liberty ; and think of ease and competence either with faint and distant expectation, or with a fixed despair of attaining to blessings apparently forbidden

forbidden to them, and reserved for the peculiar favourites of Providence, born in more auspicious stations, or dwelling under a happier sky: while others, by means of events equally accidental with those which in some countries thus depress one part of mankind almost to a level in several respects with the beasts of the field, find themselves possessed, without an effort, of the means of supplying the various wants of nature; of acquiring every reasonable indulgence, every superfluous gratification; and of applying to their own benefit the labour and skill of multitudes of their fellow creatures, even though placed in a different quarter of the globe. Now, though the actual right to a thing, and the opportunity of turning that right to the best advantage, are two things radically and totally distinct, and are every day seen and acknowledged so to be in the ordinary transactions of civil society; the want of discriminating between them in the case of natural rights has been a principal cause of the equality of men in the natural rights which have been investigated in the foregoing chapters being occasionally denied. Yet it is as unreasonable to deny the original equality of all men in those

natural rights on the ground that Providence has placed men in extremely different circumstances of life, and that the welfare of mankind necessarily requires such a disposition of them, as it would be to maintain on the other hand the dangerous and utterly false proposition, which we have heard affirmed, and seen in some measure acted upon; that because men are originally equal in natural rights, therefore distinctions of ranks in society, and the unequal distribution of property, are repugnant to natural justice.

As it has been already shewn that consent, expressed or implied, is the ground on which civil government ought to be established; so it has also appeared, even from the statement given by Mr. Paley himself, that consent was the ground on which civil government was in fact established. This latter position may be fully proved by referring to the writings of Cæsar, Tacitus, and other ancient authors, who have described the early state of society among the Germans, the Goths, and the rest of the old inhabitants of Europe; and to the ample information communicated to the public by historians and travellers, who have delineated the

the actual situation and manners of the rude tribes of the continent of North America and of New Holland, in some of which the first rudiments of civil government are just discernible, and in others the progress of subordination is but little more advanced. The objects of government would in the outset be few and simple. Natural liberty would be restrained only so far as was necessary for the defence of the tribe against its enemies. Afterwards some regulations for its internal tranquillity would be adopted. In process of time, experience would evince the propriety of restraining natural liberty still further; in other words, of making a further exchange of natural rights for civil rights instituted in their^b place; until, at length, in the revolution of ages, government and laws would naturally assume that complicated form, in which they now subsist in extensive and long established

^b Thus Sir William Blackstone defines the rights of Englishmen to be “either *that residuum of natural liberty*, “which is not required by the laws of society to be sacrificed to public convenience; or else those civil privileges which society hath engaged to provide in lieu of “the natural liberties so given up by individuals.” Commentaries, Vol. I. P. 129.

empires. The several stages of this progress may be distinctly traced in the authors to which the reader has been referred. The consent requisite to justify each step would sometimes be expressed by open declaration; but more frequently would be tacitly implied.

Whatever were the form of government established, and whatever changes had been made in it, each person who should choose to remain in the society, and avail himself of the rights and privileges of a citizen, would thereby give a decisive proof of his assent to the existing constitution, and acknowledge his obligation of rendering complete obedience to it as long as he should continue under its protection: for he could not but know that its

† Dr. Robertson, in his History of Charles V. Vol. I. P. 257, after observing that every freeman among the barbarous conquerors of the Roman empire in Europe became bound under considerable penalties to take arms in defence of the community to which he belonged, has the following just remark: "I do not mean that any contract of this kind was formally concluded, or mutually ratified by any legal solemnity. It was established by *tacit consent*, like the other compacts which hold society together."

protection

protection was offered only on the reciprocal condition of obedience to all the laws ; and that a voluntary acceptance of the one was a confession of his engaging to return the other.

In process of time, as the children of the members of the society should successively arrive at such an age as no longer to be subjected by nature to the dominion of their parents, each would find himself at that period invested by his Creator with the natural rights conferred on all mankind ; and would be entitled to the unrestrained disposal of them, until he should forfeit them by invading the rights of others, or should voluntarily consent to abridge them. He would therefore be authorised at his discretion to unite himself with the society formed around him, if it were willing to receive him within its pale ; or to seek admission into any other community. If without further enquiry he should continue in the society, taking upon himself the privileges of a citizen, and meeting with no obstruction from the legislature ; these facts would be a sufficient testimony of his desire to be enrolled among the members of the
state

state, and of the society's consent to receive him.

As no man, who had not forfeited his rights by perpetrated or intended crimes, could justly be compelled against his will to become a member of the society; so no person of that description could justly be obliged afterwards to continue a member, unless he had previously agreed to surrender, either altogether, or to a certain degree, his right of departing. It is possible to conceive one of the laws to enact that every man who enters into the community shall be bound to continue in it unto his death, or during the pleasure of its governors. Or supposing the laws to be silent on the subject, it may yet be mutually understood among the members of the society that he who shall deliberately remain within the protection of the state for a certain time (and the appointed period may be very short), shall be deemed to have tacitly agreed never to abandon his fellow-citizens. When a person has placed himself in either of those situations, his obligation not to quit the society without permission is unquestionable, untill in the one case the law is repealed,

repeated, or in the other, the implied agreement is explicitly annulled. But no vague surmise, no slender presumption, will be sufficient to justify the conclusion that a particular individual has actually involved himself in an engagement of that nature. It is an engagement which requires to be proved by clear and positive evidence. If on grounds which fall short of satisfactory proof he is constrained to continue a member of the society, he is imprisoned; and whether he be imprisoned within the limits of a dungeon or of an empire, it is an unjust infringement of his liberty.

It has been affirmed, that he who in a time of public emergency should desire to resign his rights of citizenship, and to quit the community, might justly be detained, though free from all suspicion of hostile intentions, on the *mere* ground of a return being due from him to the state for its previous protection. Yet surely this is an insufficient plea, whether it be meant that the return is due for the protection which the individual received during his childhood; or for that which he has enjoyed since he arrived at years of discretion, and has be-
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come an active member of the community. To the first argument it might not perhaps be unreasonable to reply, that the protection afforded to the child was a debt due from the state to the parent; and consequently that no compensation could afterwards be exacted or required. But without insisting on that ground, however tenable, it is sufficient to remark, that although the community may have defended the helpless infant in expectation of reaping in due time the advantage of his services; yet no contract whatever as to any future recompense from him was or could be made. The child was unable to enter into any engagement; and the parent could not engage for the conduct of the child longer than his own right of controlling it should continue in force. For every act of kindness experienced from the state, a debt of gratitude may have been incurred by the child; but debts of gratitude are from their very nature not to be recovered by ^d compulsion. In answer

^d "By our *exactions* of gratitude, and our frequent proposals to *enforce* its observance, we only shew that we have mistaken its nature." Dr. Ferguson on the History of Civil Society, 5th Ed. P. 146. So also Mr. Paley states,

swer to the other argument it may be observed, that the debt which every citizen may be said continually to incur by receiving protection from the state, he at the same time discharges, by contributing in his own station to the general security. He has at all times a just demand on the community for complete protection; and more he cannot have received. Or if we suppose some especial favour to have been conferred on him by the state, no return, except it were stipulated, is due from him as a debt of *justice*, and to be exacted by force. His conduct however in leaving the community in the hour of danger, though not an infringement of the rights of the other members, may be so ungrateful and hard-hearted, as not to be less criminal in the sight of God, than a direct infringement of their rights would have been.

The first effect, or rather the immediate object, of the formation of laws respecting the internal administration of a community,

states, that "in the instances of gratitude, affection, reverence, and the like, force is excluded by the very idea "of the duty, which must be voluntary, or not at all." Vol. I. P. 91.

is to substitute the authority of public justice in the place of the exercise of private force. The latter is generally prohibited in all cases of injury, except in those for which, from the peculiarity of their nature or of the circumstances attending them, the laws cannot provide adequate means of prevention or redress. In such it is usually and properly allowed. These excepted cases apart, the law claims exclusively to itself the conduct of every proceeding for the defence of rights which are attacked, for the acquisition or recovery of such as are withheld, for obtaining reparation for injuries received, or security from those which are apprehended. And in all these instances it extends its view beyond the concerns and the particular interests of the individual

* This distinction is wisely taken by the Laws of England. " The fifth and last auxiliary right of the subject
 " that I shall at present mention, is that of having arms
 " for their defence suitable to their condition and degree, and such as are allowed by law. Which is also
 " declared by the same statute 1st W. & M. st. 2. c. 2.
 " and it is indeed a public allowance under due restrictions of the natural right of resistance and self-preservation, when the sanctions of society and laws are
 " found insufficient to restrain the violence of oppression." Blackstone's Comm. Vol. I. P. 143.

whom

whom it assists or whom it chastises, to the general benefit of the community ; and scruples not peremptorily to require private sacrifices, when they are requisite for the main object which it pursues, the safety and advantage of the whole body politic. To such sacrifices no individual can justly object ; for he has sanctioned by his previous consent the authority by which they are enjoined ; and has given it a discretionary power (a power more or less limited in different states according to their several constitutions) of adapting its legal provisions to the general welfare of his fellow-citizens, rather than to his own individual benefit.

Thus with respect to the defence of rights attacked, the law points out the manner in which application is to be made for its assistance ; the particular tribunal before which the supposed offender is to be brought ; the sort of proof necessary for his conviction ; and the various steps which he shall be at liberty to take for his vindication.

With regard to the restitution of rights withheld, the law settles the forms and circumstances

cumstances which shall attend it. And if the rights should be in themselves incapable of being restored, the law determines the nature and the amount of the indemnification; whether it shall be rendered in property or in service; whether a longer or a shorter time shall be granted for its completion; whether any species of property shall be in any degree exempted from the claim; and whether the claim, if not fully satisfied by the offender, shall in any case attach on some part of his family.

So likewise with respect to punishment, the law pronounces the kind and degree which shall be the consequence of each crime when legally proved; varying the one and proportioning the other according to the age, sex, rank, and fortune of the criminal; studying the reformation of the offender, and particularly, the general prevention of crimes; and for the latter purpose frequently inflicting a chastisement more painful or more disgraceful than could have been justly inflicted on the offender in a state of nature, but a chastisement now rendered perfectly just by means of the previous consent already explained.

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The law proceeds in a similar manner as to property; and the justice of its institutions is manifest on the principles which have been stated above. It requires every man under its protection to relinquish his general right of occupancy, and to be contented to hold and acquire property according to such modes and conditions as are legally appointed. It creates such general or local rights, privileges, and immunities, and imposes such general or local restrictions and limitations, as it deems likely to promote the security, peace, industry, and virtue of the community. It institutes the right of testamentary bequest; that is to say, it requires every individual to abstain from exercising his natural right of seizing the possessions of the deceased (which on his death naturally become open to the first occupant^f), and to permit them to be taken by the person indicated by the declared wishes of the testator, or in default of such a declaration, by the law itself. On the other hand, it limits, as it thinks fit, the testamentary right which it has created; prescribing the forms requisite to render a bequest valid; restraining the testator,

^f See *supra*, P. 183 to 188.

in certain cases, from leaving all his property to strangers ; and perhaps requiring those who inherit to undertake, in return for the property which it has secured to them, to discharge certain pecuniary obligations of the late possessor. It is thus that a mortgage, or other similar contract, becomes efficient, notwithstanding that the rights of the late owner over the land were all extinguished by his death.

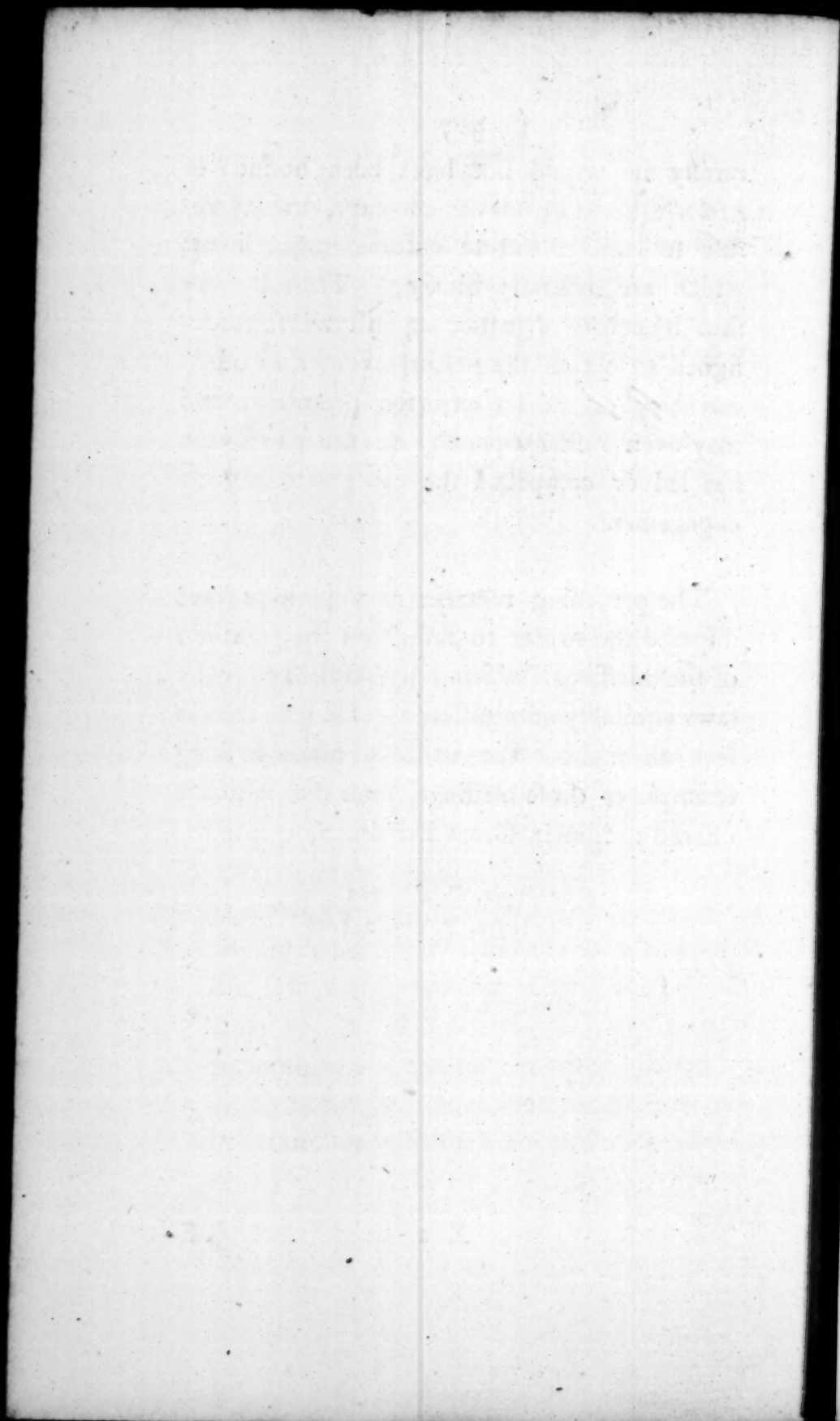
Lastly ; observations, resembling those by which the operation of the law, and the justice of its proceedings with respect to the several subjects already considered have been explained, may be applied to the case of promises, and all other engagements. The law determines the objects, the forms, and the specific obligation of every engagement, and the penalty which shall attend the breach of it. The law may without injustice render a man liable to the performance of promises made by another, as a son to a promise entered into by his father ; or may bind a person to fulfil a promise made in such circumstances (as, for example, in a state of intoxication), that naturally

turally he would not have been bound^g to perform it. Or, on the contrary, it may refuse to lend its aid to enforce engagements which are naturally binding. Thus it may shut its courts of justice against all suits designed to obtain the performance of an usurious bargain, or an extorted promise^h; and may even inflict a penalty on the party who has led or compelled the other into such an engagement.

The preceding remarks may perhaps have disposed the reader to reflect on the greatness of the blessings, which may result from wise laws equitably administered. He will in vain seek throughout the world a more striking example of those blessings, than that which is offered to him in Great Britain.

^g See *supra*, P. 201, 202.

^h See *supra*, P. 213, 218.



REMARKS
ON THE
LATE DECISION
OF THE
HOUSE OF COMMONS
RESPECTING
THE ABOLITION
OF THE
SLAVE TRADE.
THE THIRD EDITION.

REMARKS

ON THE

LATE DECISION

OF THE

HOUSE OF COMMONS

IN

THE RESOLUTION

OF THE

SLAVE TRADE

THE FIRST EDITION

1808

TO
WILLIAM WILBERFORCE, ESQ.

MY DEAR FRIEND,

YOU will probably be surprised that I should publish any thing, however inconsiderable, on the subject of the Slave Trade, without having previously made you acquainted with my intention; and you will think it particularly unaccountable that you were not informed of my present plan, as many days have not elapsed since we parted. I own that the thought of offering a few remarks to the public occurred to me while I was under your roof; but I was solicitous to be able to say, that these pages have been written altogether without your knowledge, and that without your knowledge they are now inscribed to you. Had you been apprized of their existence antecedently to a printed copy being put into your hands, it is possible that some one might have imagined that their

DEDICATION.

appearance was directly or indirectly owing to yourself; and I might not have been credited, even though I had affirmed, with as much sincerity as I now do, that you are not in the slightest degree responsible for a single sentiment or for a single expression which they contain. Whatever may prove to be your opinion of the following observations, you will believe that my only reason for committing them to the press is a desire to contribute, as far as a private individual like myself can contribute, to promote the great object which you have in view;

And that I am always,

very affectionately, yours,

Yoxall Lodge,
April 9th, 1792.

THOMAS GISBORNE.

ADVER-

ADVERTISEMENT.

A CHAPTER on Slavery and the Slave Trade having been recently selected from the Second Edition of my Treatise on the Principles of Moral Philosophy, and reprinted by itself, and digested into separate heads: I fear that I may be deemed obtrusive and assuming in so speedily requesting the further attention of the reader. I therefore think it incumbent upon me to declare, that the first intelligence I had of that republication was contained in a very flattering letter which I received within these few days from a gentleman of high literary eminence in the University of Oxford, with whom I am not fortunate enough to be personally acquainted; but who, having done me the honour to think, in conjunction with some of his friends, that the dispersion of my former arguments might not be altogether useless, had spontaneously taken upon himself the trouble of thus giving them an extended circulation.

REMARKS,

NOTES

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom. This is a circular argument, but it is the only way to proceed.

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REMARKS, &c.

WHEN a subject of great importance is under general discussion, it seems the duty of every man not to shrink from offering his observations upon it to the world, if he conceives that he may chance, in some degree, to counteract a prevailing error by which the judgement of the public is in danger of being misled. On this ground I venture to send abroad the following reflections, suggested by the late decision of the House of Commons respecting the Abolition of the Slave Trade. Having been desirous that, if they were to appear at all, they should appear without loss of time, I have drawn them up in haste; and shall be content if they are founded in truth, and stated with tolerable perspicuity.

The resolution, in which Mr. Wilberforce pressed the House to concur with him, was
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in substance, "that the Slave Trade ought to be abolished." He avowed, in the most energetic terms, his own conviction that, on every principle, not only of humanity, of justice, and of religion, but of sound policy likewise, the Slave Trade ought to be abolished *instantly*. But he explained that any gentlemen, who, though friendly to the abolition, were not disposed to think that it ought immediately to take place, would not be precluded, by voting for the general resolution proposed, from moving, when a bill conformable to that resolution should be introduced, that the Slave Trade should be tolerated for a limited term.

A motion was afterwards made by Mr. Dundas, that the resolution should be amended by inserting the word "gradually" before the word "abolished." And, after a feeble attempt, on the part of those who were hostile to the original resolution and also to the amendment, to reject both by moving to adjourn (a proposition which was negatived by a majority of two hundred and thirty-four to eighty-seven), the insertion of the word "gradually" was carried, in spite of the most
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powerful opposition of Mr. Pitt and Mr. Fox, who contended for the immediate abolition with the most convincing arguments, and with that earnest and impressive eloquence which shews itself to come from the heart, by a majority of one hundred and ninety-three to one hundred and twenty-five.

This contest having been determined, it remained to decide between those who were friends to abolition, immediate or gradual, and those who were enemies to both, by taking the sense of the House on the amended resolution; and a majority of two hundred and thirty to eighty-five resolved that "the Slave Trade ought to be gradually abolished."

It appears then, that of the three parties into which the House of Commons was divided on the subject of abolishing the Slave Trade, that which supported immediate abolition was the most numerous; that which patronised gradual abolition the next in point of strength; and consequently that which resisted abolition in every shape the weakest. A comparison of the respective numbers in
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the several divisions already stated leads to the conclusion, that the first party exceeded one hundred and twenty; the second consisted of somewhat more than one hundred; and the third of about eighty-seven. It is to be observed, that in the second of those divisions, the successful side, amounting to one hundred and ninety-three, contained the united forces of the gradual abolitionists and the anti-abolitionists. For the latter, though adverse to abolition in any form, yet being reduced on that occasion to the alternative of dividing either with the immediate or with the gradual abolitionists, naturally gave the preference to the latter.

Having thus given a summary account of the various motions submitted to the House, and of the several parties engaged in the struggle; I shall, in the next place, briefly enumerate the principal facts respecting the nature and consequences of the Slave Trade, which were openly maintained by the friends of the abolition, and admitted by nearly three fourths of the members present: and I shall afterwards proceed to the chief object of these pages, an examination of the leading arguments

ments on which those who preferred gradual to immediate abolition rested the propriety of their opinion. Collateral remarks will probably suggest themselves during the investigation of the subject.

I. The grounds, on which Mr. Wilberforce and his supporters in Parliament have uniformly pronounced the Abolition of the Slave Trade to be an act of indispensable duty, were allowed to be completely established. It was admitted that this detestable traffic is indebted for its existence to wars, in many instances, excited by Europeans, in many commenced by the natives, for the purpose of procuring slaves: to the depredations perpetrated by the kings of the country on their own subjects, sometimes by seizing unsuspecting individuals, sometimes by breaking up and firing villages in the night, and catching the inhabitants as they fly naked from the flames; to the kidnapping of negroes of every tribe, and of all ranks and occupations, most commonly by the black traders, occasionally by British captains and seamen: to the perversion of penal justice by the infliction of slavery as the punishment of almost every real crime,

crime, however trifling; more frequently as the punishment of pretended crimes imputed for the very purpose of enslaving the party accused, perhaps even his whole family with him. The miserable condition into which Africa is sunk by the prevalence of such a system of atrocious enormities was equally uncontradicted. The almost total annihilation of private security, of mutual confidence, of domestic comfort; the temptations held out to the darkest passions of the human heart, to malevolence and guile, to cruelty, rancour, and revenge; these, and all the other dreadful effects which the Slave Trade has been charged with producing in that devoted land, were allowed not merely to have been delineated with the sober colouring of truth, but to have been ascribed to their proper source. Even the gentleman who moved the adjournment in order to put an end to all motions for abolition, owned that in his sentiments as to the state of Africa, he differed little from Mr. Wilberforce. Nor was any one found hardy enough to contend, that it will be possible, while this commerce shall continue, to apply or to devise a remedy for these evils; to raise the Africans

Africans in the scale of civilization; or by erecting on their shores the standard of the Gospel, to make some compensation for the innumerable crimes which, at our instigation, they have committed.

It was likewise recognised by the same majority of the House, that the Slave Trade, baneful as its consequences are to the continent on which it is carried on, is attended with effects so pernicious to this country, as even, in some respects, to bear a comparison with the former. The annual death of more than one fifth of the seamen employed in the slave ships, and the subsequent diminution, through diseases contracted, and injurious treatment sustained in the Slave Trade, of the remainder of the crews during their voyage to the West Indies, and after their arrival there; a diminution so great, that, on an average, not more than one half of the original number of sailors is found to return home: these were facts confessed to have been proved by evidence in itself incontrovertible, and furnished by the very enemies of the abolition; and confessed to be in the highest degree alarming to a people trusting

in its marine, not for commercial pre-eminence alone, not merely for distinguished rank in the catalogue of nations, but for liberty and independence. Nor did it escape the vigilant eye of the Legislature, attentive to the real interests of that mercantile policy, so worthy of being pursued by a maritime power in every channel through which Humanity and Justice lead the way; that by the Slave Trade Great Britain is effectually precluded from establishing an extensive intercourse with the various kingdoms of Africa for the purpose of obtaining the many valuable productions with which those regions abound; an intercourse capable of being carried on without exposing our seamen to uncommon hardships and mortality or counteracting the natural tendency of commerce to augment our marine; an intercourse offering to our manufacturers and artisans numberless raw materials of the highest value, and opening a new and continually increasing market for the exports of this country; and, above all, an intercourse in which industry may count her gains without blushing at the manner in which she has accumulated them,

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and shuddering to behold them contaminated with blood.

Further: the House of Commons was constrained to yield its reluctant assent to a truth far more grating to the feelings of a British Parliament, far more humiliating to the character of the British Nation, than the obstruction of commercial enterprise, and all the consequent impediments to the sale of our manufactures, to the enlargement of our revenue, and to the increase of our naval strength. It was constrained to admit, with shame and indignation, that the customary effect of the Slave Trade is to produce in the hearts of British captains the extinction not of British generosity, not of common benevolence, but the extinction of almost every feeling which distinguishes the man from the wild beast. By examples, too many to be enumerated, and too shocking to be repeated, the House was constrained to admit that no savage of America ever displayed more implacable malevolence, more refined and ingenious cruelty, in tormenting his prisoner, than British captains have exhibited in the usage of the wretched slaves whom they

have purchased; and that no tyrant of Persia or of Morocco ever treated his subjects with more unrelenting barbarity, more bitter unkindness, than British slave captains have exercised towards their seamen. I do not mean that every commander of a slave ship was proved to have shewn himself a monster of inhumanity. Some individuals in that situation, notwithstanding the depraving nature of their employment, and the contagion of surrounding examples, have manifested much attention to their sailors, and much compassion to their slaves. But unfeeling ferocity is, generally speaking, the characteristic of those who are concerned in the Slave Trade. Exclusive of those horrid instances of cruelty to which I have alluded, it is an established fact, that the usual conduct of the persons who are actively engaged in this traffic is in a singular degree brutal and atrocious. Neither the inferior officers nor the common seamen can be exempted from this reproach. But the petrifying influence, which familiarity with scenes of blood and rapine exerts upon the heart, is particularly visible in those who have the principal share in directing them; and who, possessing uncontrolled authority

rity in their respective ships, add fuel to every savage passion by unlimited indulgence.

The same majority of the House was strongly impressed with the conviction, that the existence of the Slave Trade is the radical cause of insurrections in our colonies. That the continued importation of Africans is the grand source from which revolts of the plantation negroes originate, has long been maintained with unanswerable arguments by the advocates for abolition; and this conclusion was maintained before the House of Commons in the late debate, not merely by the friends of immediate abolition, but by Mr. Dundas himself. No language could be more decided than that which was held by him on this subject. In addition to the irrefragable train of general reasoning by which other members had already evinced the dangers to be dreaded, as long as the slaves in our islands are exposed to be kindled into revolt by the arrival of their countrymen recently enslaved, and burning with indignation and revenge; he referred, as other speakers had done before him, to the memorable declarations of Mr. Long in his History of Jamaica. On this topic the authority of that

historian is altogether unquestionable, not only because he had the fullest opportunities of acquiring local information respecting the causes of insurrections among the negroes; not only because he professedly applied himself to gain all possible intelligence on the subject; but because his avowed enmity to the suppression of the Slave Trade exempts him from the suspicion of being led by prejudice, or by any other motive than the strong impulse of duty, and the irresistible force of truth, to deliver a testimony, which, were every other argument set aside, would itself be sufficient to convince all impartial men, that this traffic ought instantly to be abolished. Among many other observations, which clearly demonstrate that it is in vain to expect that the islands can enjoy permanent security while the Slave Trade is allowed to subsist, Mr. Long expressly asserts, as the result of his own experience, as the general conclusion to which he was led by accurate and repeated inquiries instituted for the purpose of ascertaining the origin of colonial insurrections, that those insurrections take their rise from the imported Africans, not from the Creole negroes. He further makes it evident in another

other passage, that the rigorous treatment and the legal severities, which the planters deem necessary to be universally exercised towards their slaves, for the purpose of coercing those who, having been lately brought from the coast of Guinea, shew themselves full of turbulence in their dispositions, and unwilling to labour for masters whom they consider as their oppressors; are such as to preclude the great mass of plantation negroes from obtaining that pittance of ease and comfort which, it is allowed, they might otherwise be safely permitted to possess. On these plain grounds, furnished by the writer whom the enemies of the abolition have been accustomed to bring forward as the highest authority in all points affecting the interests of the West Indies, and whose reasoning, even when fatal to their own side of the question, they find it impossible to dispute; it was incontrovertibly proved to the House, that the only safeguard against the most horrible calamity, which the colonies have to dread, is to be sought in the abolition of the Slave Trade: and that no island is secure from ruin, no colonial property safe for a moment, while the entire accomplishment of that measure is delayed. For

what but the total abolition can put a stop to the introduction of those Africans, who, smarting under recent injuries, are continually meditating schemes of revenge ; or render it practicable for the planters so to meliorate the condition of their negroes, as to inspire them with sentiments of content and satisfaction, and convince them that they have an interest in the tranquillity of the islands in which they dwell ? I have suffered myself to dilate on this branch of my subject somewhat more than I intended ; and I have dilated upon it without reluctance : for I feel no common pleasure in the consciousness that all those calumnies, which the enemies of the abolition had heaped upon its friends ; all those imputations which had been urged by the former against the latter, branding them as having caused already, or as being likely to cause hereafter confusion, disturbances, and revolts, in the West Indies, were publicly and effectually done away ; and not only that these calumnies and imputations were done away, but that they recoiled on those with whom they had originated ; and that the very measure which has been represented with such dishonourable indus-try as portending speedy
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and complete destruction to our colonies, is evinced to be that measure which alone can ensure them from being sooner or later convulsed by insurrections, laid waste by conflagrations, and deluged with blood,

It appears then, from the preceding statement, that the Slave Trade was generally admitted by that part of the House of Commons which supported the abolition, to derive its supplies from treachery and rapine, and incontestable villainy; to have plunged and to detain the continent of Africa in misery, barbarism, and idolatry; to be the grave of our seamen; to obstruct a very beneficial and honourable extension of our commerce; to harden the hearts and brutalise the dispositions, in a degree scarcely to be described, of by far the greater proportion of Englishmen employed in it; and to be the radical cause of West Indian insurrections, and the grand obstacle to the improvement of the condition of the negroes now in our islands. On all these grounds, not to notice other incidental arguments which pointed to the same conclusion, the Slave Trade was thus recognised by nearly three fourths of the House to be inhuman, unjust, and impolitic.

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Were a stranger to hear a simple recital of these concessions, he would without hesitation pronounce that the House, whether it were actuated by motives of conscience or of interest, unquestionably passed a vote before it rose, abolishing the Slave Trade from that moment.

Every man who feels for the honour of the House, for the interests of this country, for the welfare of Africa, and for the cause of humanity, of justice, of morality, and of religion, cannot but deplore from his heart that such a determination was not adopted.

There proved, however, to be a considerable number of the members, and in that number were found two persons not less distinguished for their abilities than respectable from their stations, who, without hesitating to admit the inherent criminality and the impolicy of the Slave Trade, were yet of opinion that it ought to be abolished, not immediately, but in some gradual manner; and being joined, for reasons which I have already stated, by those who were hostile to abolition in every shape, unfortunately obtained the sanction of the
House

House to a resolution conformable to their sentiments.

II. It remains for me to specify, and to examine, the principal arguments urged by those who spoke on that side of the question.

Those arguments may be reduced to two ; one purporting to manifest the impracticability, the other to evince the injustice, of immediate abolition.

In the first place it was affirmed that the adoption of measures professedly aiming at nothing further than gradual abolition, was not merely the most prudent, but the only effectual, method of attaining the object so generally desired, the final suppression of the Trade. For the cordial assistance and co-operation, it was said, of the colonial legislatures is indispensably requisite to ensure the success of any British acts of Parliament respecting the abolition ; and the concurrence of the islands can in no degree whatever be expected, much less their active and hearty exertions, if their prejudices are shocked in the outset by our peremptorily

emptorily resolving on a total and immediate abolition.

In the next place it was alleged, that, however strongly justice might demand the extinction of this traffic (and that justice did require it they who adduced this argument unequivocally admitted), yet opposite considerations of justice demanded that for some definite time it should be suffered to continue. For the planters, it was represented, had embarked their fortunes in the cultivation of the islands under the approbation and encouragement of the legislature of the mother country; and with a full expectation that they should enjoy without interruption the right which they have ever possessed, a right essential in their opinion to the improvement and preservation of their property, that of recruiting and augmenting their gangs by the purchase of negroes from the coast of Africa. And from these premises it was inferred, that the immediate abolition of the Slave Trade would be an act of direct injustice.

On the first of these arguments I shall probably

bably not find it necessary to offer many remarks. The assertion on which it entirely rests, that it will not be in the power of the British Parliament to ensure the execution of an act, should it pass an act, for the immediate abolition of the Slave Trade, without the approbation and effective aid of the colonial assemblies, was scarcely attempted to be in any respect substantiated by those who made it; and was controverted and completely overthrown by the Chancellor of the Exchequer. The only way in which any effort had been made in the course of the debate by the friends of gradual Abolition to establish the truth of the assertion which we are considering, was by an indirect intimation, that it would be impracticable for Parliament to prevent the planters from introducing slaves in a clandestine manner into our islands from foreign vessels, and foreign ports in the West Indies; and that the colonists would undoubtedly resort to those methods of obtaining African negroes, were they to be irritated by a sudden Abolition of the Slave Trade.

I shall not, on this occasion, enter into the
discussion,

discussion, whether the planters in general, if the Slave Trade were immediately suppressed, would find themselves in want of recruits for their gangs. That in the common course of things they would not feel any such want, unless, contrary to the most evident principles of interest, they should bring it upon themselves by some extravagant and unaccountable misconduct of their own, is a point which, in my judgement, has been thoroughly proved. Nor shall I inquire into the probability of their endeavouring to supply their deficiencies, and even to enlarge their original numbers, by smuggling. I shall admit, for the sake of argument, that they would wish to do both. But with regard to the practicability of thus introducing African negroes in the face of a British act of parliament, and in opposition to the will of this country, I confess that the reasoning of Mr. Pitt, corroborated as it is by a reference to such regulations as Great Britain has an undoubted right to establish in the West Indies, has impressed my mind with a decided conviction that such attempts on the part of the colonists would be altogether ineffectual. I do not mean to affirm, nor did Mr. Pitt contend,

tend, that it might not be possible now and then to evade the most rigid law, however vigilantly executed; and by stealth to gratify, in a few detached instances, that hankering after negroes iniquitously stolen and cruelly forced from their native land, which long and unbridled indulgence has naturally produced. But if Great Britain shews herself resolved on the one hand to put an entire stop to the gratification of that inhuman appetite; and on the other feels conscious that she is possessed, according to the terms of the connection subsisting between herself and the West Indies, of a right to prescribe whatever laws she thinks fit to their commerce, and to enforce, by the appointment of proper officers in their ports, complete obedience to her will; how is it possible that her will can be resisted? If Great Britain finds herself able, and no one will deny that she has found herself able, effectually to prevent the introduction of foreign manufactures into the colonies; can it be impossible, can it be difficult, for her to prevent the introduction of slaves? If she can successfully prohibit, with a word, the introduction of a bale of cloth, of a chest of tea, of a bag of nails; can she fail of suc-
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cess when she prohibits the importation of a negro? If she proved herself able completely, and without an effort, to annihilate the introduction of American lumber into the islands, reluctant as the planters were to relinquish that mode of obtaining what they considered, as it were, a necessary of life; are there not additional reasons which render it far more easy for her to annihilate at once the introduction of slaves from Africa, however adverse the colonists may be to an act of parliament for that purpose? For a negro, I believe I may now venture to affirm it on the confession of slave captains and slave dealers, is a human creature. He has some powers of understanding; he has organs of articulation; he has a language not altogether unintelligible to European ears which have been accustomed to it. He is not, like a piece of lumber, unable to give any account how he came into the island; he is not, like a piece of lumber, cut to pieces and worked up into some other shape; mangled though he may be, he preserves some traces of the human form; his purchaser is desirous that he should live, at least for some time; he is capable of telling his story; and though the colour of his skin
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may very fitly prevent any white man from believing him, he is capable of being identified, he is capable of being put to the test by a reference to public registers, and other documents, by which the slaves possessed previous to the Abolition, together with Creole slaves born after it, may be precisely ascertained; he is capable of being questioned by public officers, who may be appointed regularly to inspect the plantations, and examine the negroes; he is capable of being declared free, if he is found to have been fraudulently procured; and his owner is capable of being punished for having fraudulently procured him.

To what I have said on this branch of the subject I will only add, that the plan by which Mr. Dundas proposed to accomplish the gradual suppression of the Slave Trade, the great outlines of which he traced in his speech, appeared to be clogged with extreme difficulties, which were very ably pointed out by Mr. Fox. And one of its leading features, the emancipation of all the children of the negroes after they shall have attained a certain age, was surely of such a nature as

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to shock the prejudices and alarm the self-interested feelings of the planters, even far more than the immediate Abolition of the Slave Trade. I have, in truth, no conception that any thing, which can fairly be termed the abolition of this detestable traffic, will ever be effected by any plan, the success of which is to depend on the co-operation of the colonial legislatures. For, whatever regulations those assemblies might think it prudent to sanction by their statutes, for the purpose of weathering the present storm, and giving time for the spirit of humanity and justice, now at work in Great Britain, to evaporate; with what shadow of reason can we hope that they would cordially superintend the execution of them, and zealously exert themselves for the attainment of the benefits proposed: knowing, as they would from the first, that the reward of their zeal, the result of the attainment of those benefits, was avowedly to be the Abolition of the Slave Trade; a measure which, whether immediate or gradual, they denounce as inevitably ruinous to the West-Indies, and resist with such bigoted and acrimonious perseverance? Encouraged by having once obtained from
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the British Legislature a license for this bloody traffic for a specified term, they would silently wait, neither openly counteracting, nor yet carrying into actual effect, the internal regulations which they had been constrained to enact, but could not be compelled to execute; and purposing, when the term should be nearly expired, to apply again and again to Parliament for prolongations of it. They would be conscious, that at any future time they should be able to make out at least as plausible a case as at present; perhaps, by availing themselves of contingences, one somewhat more plausible. And they would trust, that by seizing the moments when the situation of public affairs may render the political assistance of the planters of more than common value to the minister of the day, they might obtain repeated extensions of their period of rapine; though it would have been in vain to hope, that, if once an act had passed for immediate abolition, its repeal could have been extorted. And thus, by always holding out the prospect of a speedy termination of the trade, they might lull the people of England into supineness, and continue to purchase the wretched Africans for ever.

Let us now consider the other argument adduced by the friends of gradual abolition.

This argument, my reader may recollect, was in substance, that justice, although it is confessedly violated by the continuance of the Slave Trade, would likewise be violated by the immediate suppression of it; since the faith which Parliament, it was said, has pledged to the colonists, would, in that case, be broken.

Mr. Dundas, in the course of his speech, certainly alleged what approached very nearly to this reasoning; perhaps what entirely amounted to it. But there was another gentleman, who stated it, to my ears at least, in plainer and more pointed language, who, after adopting the emphatical expression of a member who had spoken before, that "the Slave Trade is not a trade, but a crime;" and after recognising, on the one hand, the claims of justice for its abolition, refused to concur in immediately satisfying them, because, in his opinion, there were "opposing claims of justice on the other."

In this age of liberal discussion we may examine with unreserved freedom an argument delivered in a public assembly, without being suspected of failing in personal respect towards those who adduced it. Let us then consider what this argument implies.

It implies a direct and palpable contradiction. It implies an impossibility no less extravagant (if impossibilities may admit of comparison) than for the same identical form to be at once round and square; for the same particle of water to be at once in a state of thawing and of congelation. It is saying that justice may be unjust; that an act of absolute duty may be a flagrant crime. For what is it that the argument affirms? Not that justice will hereafter, and under certain future contingences, demand the Abolition of the Slave Trade; but that it does now and under present circumstances demand it. And what does the argument deny? It denies that it is just to abolish the trade until some years shall have elapsed, and certain changes shall have taken place in the situation of the planters,

How then are we to rectify these glaring

inconsistencies, these jarring and irreconcilable conclusions? By taking up the matter a little higher, and attaining clear ideas of the true nature of justice, and of its bearings on the question before us. Without encumbering ourselves with the formalities of logical definitions, we may state justice to consist in refraining from invading the rights of others. Justice then, it is said, demands the Abolition of the Slave Trade, because it prohibits the invasion of the rights of the Africans, by which alone the Slave Trade subsists. This position is granted by all the friends of Abolition, whether immediate or gradual. And justice, adds the one party, since it prohibits such invasion universally and at all times, requires the immediate Abolition. Take a larger view of the subject, replies the other; does not justice prohibit the invasion of the rights of the West Indians? Unquestionably. And is not the faith of Parliament pledged that no great change of system shall be enforced on them from which their property may receive an essential injury? And consequently does not justice, conclude the supporters of gradual Abolition, require, in order that their property may be secured from material detriment,

ment, a limited permission of the Slave Trade to take place?

Such is the detailed state of the question.

Now I conceive, that no gradual abolitionist, nor even any the most prejudiced planter, whatever language he might hold when talking inaccurately of the pledged faith of Parliament, would contend, when pressed closely on the subject, that the Legislature has bound itself for ever to support the Slave Trade for the purpose of securing West Indian property. He would undoubtedly explain his meaning to be this: that the Legislature stands engaged, either to let the Slave Trade continue, or to give a full compensation for any detriment incurred by its Abolition.

For the present I will suppose, what I by no means intend permanently to concede, that a pledge, thus explained, has been given to the planters by the British Parliament.

How then are the claims of justice on behalf of the planter to be satisfied? By violat-

ing her claims on behalf of the African? That is impossible. Justice cannot at once give to the African a right to be free, and to the slave captain, or his emissary, a right to enslave him. The claims of justice, it is an important truth, and let us remember it, cannot oppose each other. Every claim which she sanctions attaches to some appropriate object. The claim which she gives to the West Indian is not on the African, who is free; but on the Parliament of Great Britain, which, according to our present supposition, is bound. The planter has no plea to invade the liberty of the one, fully as he may be entitled to exact payment from the other. The African has incurred no debt; he was no party to the contract; he has not put himself into the hands of the British Legislature; he has not engaged to ratify its bargains with its colonists; he has not pledged himself to surrender at the beck of a Guinea captain; to abandon his country, his friends, and his kindred; to pine in fetters and misery in the hold of a slave ship; to be trucked and bartered for money; to expend his strength for strangers; to bleed at the will of a master; to groan under the whip of a merciless driver; to endure the
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taunts, the ignominy, and the oppression, which fall to the lot of hopeless captivity; and to deliver all his posterity into bondage for ever. Let those discharge debts who contract them. England, it may be, had rather pay her creditors with African blood, than with her own gold. And this her Senators tell her is justice,

But I must now recall that concession which, for the purpose of giving every advantage to the argument which I have been combating, I have hitherto made. I deny altogether that the West Indian planters (with the exception of some proprietors of lands in the ceded islands, whose case rests on grounds peculiar to itself, and not undeserving of further inquiry) will have any just claim to compensation from this country, if the Slave Trade shall be instantly abolished. For several reasons, two only of which I will mention, I deny that they will have any such claim. In the first place, I think it apparent, from the evidence laid before the House of Commons, that the number of births among the negroes is now greater than that of the deaths; and that the immediate Abolition would

would contribute, in various ways therein specified, to the general benefit of the proprietors of the islands. And, in the next place, it was completely established in the late debate by the Chancellor of the Exchequer, after he had described the important advantages which would accrue to the West Indies from the immediate Abolition, that no pledge whatever has at any time been given by the British Parliament, either that the Slave Trade should not be suppressed, or that the losses incurred in consequence of its suppression, had any losses been likely to take place, should be made good by the public. I will not injure his arguments, which were not only founded on general reasoning, but confirmed by a reference to particular statutes, by attempting a detail of them. I trust that they will be laid before the world with sufficient correctness in some of the promised Reports of the Debate; and shall content myself with adding, that to my mind they were perfectly conclusive.

I should hope that no person who had an opportunity of hearing the reasoning of Mr. Pitt on the subject of compensation, can still

have a doubt remaining as to the groundlessness of all claims on the public, except, perhaps, with regard to the ceded islands, which planters may bring forward. But I will not allow myself to apprehend, that any individual whatever who shall seriously put the matter home to his conscience, can fail of convincing himself that the claims of the West Indians to compensation, had they been founded in truth and justice, could not have vindicated the continuance of the Slave Trade for a moment.

I would now therefore address myself to all who have hitherto been disposed to gradual rather than to immediate Abolition; and, were it not that it might be construed into an appearance of presumption, I would particularly request the candid attention of those members of the House of Commons, if any such should honour these pages with a perusal, who on the late discussion gave their suffrages for the former measure in opposition to the latter. Thinking, as unquestionably I do, that the continuance of the Slave Trade for another hour can be justified on no ground of policy or of reason; thinking that its con-

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tinuance is a direct violation of the principles of justice and of the most sacred obligations of Christianity; I give to all who voted for a limited prolongation of its existence full credit for the purity of the motives by which they were actuated. And with respect to that gentleman, to whose expressions I have had occasion more particularly to allude, when endeavouring to refute the argument, that "opposing claims of justice" forbade the immediate Abolition; I feel it my duty to declare, little as he can be concerned as to the opinion entertained of him by a stranger, that I have ever been accustomed to regard his character with respect and admiration; and that I still regard it with respect and admiration, deeply as I lament that the measure which he supported should have received, even for a single instant, the countenance of such talents and of such virtues.

I should consider myself as offering an injury to the parliamentary friends of gradual Abolition, were I to represent them as having favoured that plan on any other grounds than the two general arguments which I have stated. I should consider myself as offering
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them an injury, were I to allege that they were of that description of men, who caring little, and knowing less, respecting momentous questions on which they are called to decide, are always ready to adopt some half-measure, something intermediate between right and wrong, and applaud themselves for being persons of moderation. I should consider myself as offering them an injury, were I to intimate that they had been led by confused expectations of some national benefit to be attained by the Slave Trade, of some public or private evils to be dreaded from the subversion of a long established system (delusive as all such expectations, visionary as all such fears would have been), to make a compromise between God and mammon^a; and, after admitting

^a I cannot refrain from making a few short remarks in this place, although they are not required by my present line of argument, on the blind ignorance, not to say the bold impiety, of those who have presumed to assert that the Scriptures sanction the Slave Trade. That the Scriptures permit the existence, under certain circumstances, of the state of slavery; and that the Supreme Being promulgated laws to the Jews respecting the proper mode of treating those who, for their crimes, by their own consent, or for debt, had been brought into it, I readily allow. But
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mitting what 'is due to the former, resolve to postpone the discharge of the obligation till it should suit the convenience of the latter. I admit them to have pursued a course which they believed at the time to have been the line of duty ; and I admit that they pursued it for one or both of the reasons already mentioned, namely, that proceeding in the way of

if any man will yet dare to affirm, that, in plain contradiction to the acknowledged attributes of the Deity, any sanction is given in the Old Testament to those who reduce men to slavery by force or fraud, let him blush when he reads the following lines : “ He that stealeth a man and selleth him, or if he be found in his hand, he shall surely be put to death.” *Exod. xxi. 16.* I hope ere long to see a British Act of Parliament enact the same penalty for the same crime ; and not forget those who either in Africa or the West Indies shall buy men who have been stolen. Again : “ If a man be found stealing any of his brethren of the children of Israel, and maketh merchandise of him, or selleth him, then that thief shall die ; and thou shalt put away evil from among you.” *Deut. xxiv. 7.* This latter passage only relates to the stealing or selling of a Jew by a brother Jew. But Christ, we know, has commanded us to consider and treat all mankind as our brethren.

If any one ask what particular light the New Testament throws on the Slave Trade, in addition to the conclusions to be drawn from its general precepts, he may consult the ninth and tenth verses of the first chapter of the first Epistle to Timothy, and observe the description of persons with whom “ man-stealers” are classed by St. Paul.

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gradual Abolition would be the most practicable, perhaps the only practicable, method of extinguishing the Slave Trade; and that considerations of justice due to the West-Indians render it morally wrong to abolish it at once. But if on reflection they discover both these reasons to be erroneous; if they become convinced that the immediate Abolition of the trade is the only sure method of abolishing it at all; and is the only measure which justice and religion permit conscientious men to adopt; if they feel themselves bound in duty to God and man to quit a dangerous and polluted path, which, on entering it, they conceived would lead to the dwelling of mercy, of equity, and of happiness; but which they now behold pointing at once to fraud and rapine, to anguish and murder, to every thing that is atrociously and incurably iniquitous; they have the comfort of reflecting, that it is not yet too late to recede. They have the comfort to reflect that the rights, which the wisdom of our constitution confers on members of the House of Commons, ensure to each individual, who possesses a seat among the representatives of the people, an opportunity of re-considering
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his conduct and the grounds of it; of rectifying his misconceptions; and even if he finds that he has inadvertently been led into fundamental errors, either with respect to supporting or to resisting any measure proposed, of throwing the weight of his suffrage and of his exertions into that scale which he now perceives to be stamped with the characters of justice. Great is the praise which belongs to men who, acting under the impulse of upright intentions, are fortunate enough to embrace at first the proper course. Yet greater praise is due to those, who, influenced by motives equally pure, but unconsciously mistaking the direction in which they ought to have proceeded, have the understanding to discern, and the magnanimity to correct their error; and triumphing over the artifices of the self-interested, who are solicitous to detain them in it, and strive to alarm them by the prospect of the tremendous charge of inconsistency, do not hesitate to avow, that the consistency at which a good man ought to aim, is the being consistent in always doing what he believes to be his duty; and that having endeavoured to keep their minds still open to argument and conviction,

viction, they have discovered that they were less wise yesterday than they are to-day.

If ever there was an occasion, when those, who have given a vote on which they reflect with concern, are particularly called upon by every moral consideration to prevent by a timely and effectual remedy the consequences to be dreaded, it is the present. Let them place before their eyes the enormity of the evil in question. Let them consider (I speak on a supposition which I am unwilling to think possible, that the House of Lords too should be of opinion, that the laws of God may be suspended by an act of Parliament, and that some duration, however limited, should be granted to the Slave Trade) how many thousands and tens of thousands of their fellow-creatures, from whom they have received no injury, who have committed no crime, they will have contributed to plunge into a complication of the greatest of human calamities. Let them also reflect on the additional multitudes, which from past experience we may expect to be mangled, slaughtered, or rendered miserable for life in those scenes of war, treachery, and outrage, by

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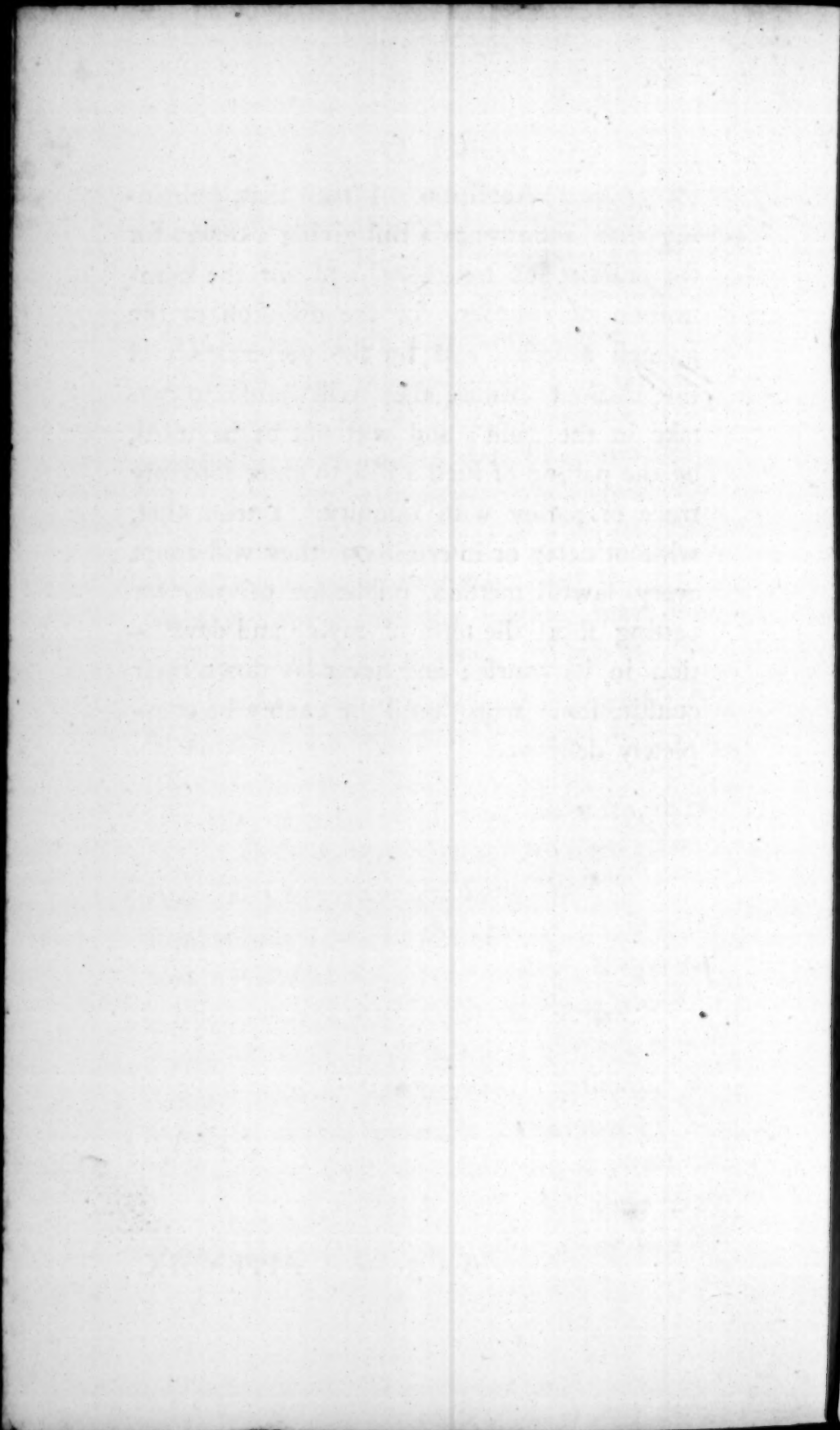
means of which our slave ships are to be filled. During the continuation of the term, should a term be granted, the eagerness of the planters to buy slaves, and the consequent increase of price, together with the apprehension of a speedy period being put to their execrable traffic, will stimulate the brutal avarice of the slave-takers to tenfold exertions, and increase in an equal proportion the devastation and miseries of Africa. "Wo to the inhabitants of the earth; for the Devil is come down unto you, having great wrath, *because he knoweth that he hath but a short time.*" Well may these words of holy writ be applied to that devoted land! But supposing the term to be extremely short, to be one or two years; supposing too that it would be possible to limit the number of wretched beings to be seized in Africa, and exported to the West Indies; supposing that only ten thousand more of our fellow-creatures were to be received on board our slave ships; I earnestly beg every member of the Legislature to pause for a moment, and before he gives his assent to a Bill for that purpose, to make the case of one of those ten thousand Negroes, whose liberty and happiness he is called upon

to vote away in cold blood, fairly and impartially his own. Let him do as he would be done by. Let him collect together all the reasons for assenting to that bill which others have produced, and add to them all which his own ingenuity can suggest. Let him ask himself; and let him answer himself truly, for much is at stake; whether, if he were that Negro, he should think those reasons justified his being enslaved. Let him ask himself, whether they would justify the enslaving of that Negro, if pleaded before an unprejudiced court of justice. Let him ask himself, whether they will justify it at that tribunal, before which he and that Negro will shortly stand face to face.

What may we not expect from the virtue of individuals, when so generous and laudable an ardour pervades the people at large? It is indeed an ardour which does not disgrace the cause in which it is displayed. Whatever feeble efforts may have been made to cast reflections on a few of the Petitions presented to Parliament; it is impossible for any reasonable man to deny, that the inhabitants of Great Britain, while they have performed the

duty which they owe to the Constitution, by applying to the House of Commons in that temperate and respectful manner, in which every branch of the Legislature ought to be addressed; have manifested their detestation of the Slave Trade with a nearer approach to unanimity, with more decided conviction, and, I may add, with more knowledge of the subject in question, than was ever experienced before on any public measure. It is an ardour which I trust will never subside, until this traffic is utterly extinguished. While the serpent has life there is danger. It may appear to have received a fatal wound; but if it be not speedily crushed to pieces, it may prolong year after year its baneful existence, and at length revive in all its wonted horrors. No circumstance is so likely to prevent the Slave Trade from being abolished, as for the country to imagine that it is in fact abolished already. If opposed with active and persevering exertions, it will be annihilated: if despised and neglected, it will secretly resume its strength. Imitating the example already given in Parliament by Mr. Wilberforce and his associates, I trust the people of Great Britain will wash their hands from having any concern in bringing in a Bill
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for *gradual* Abolition. I trust that, beholding with abhorrence a Bill giving a *licence* for the practice of treachery, and for the commission of murder, for the diffusion of the greatest miseries, and for the perpetration of the blackest crimes, they will refuse to partake in the guilt; and will not be beguiled, by the passing of such a Bill, to enter into any truce or parley with iniquity. I trust that, without delay or intermission, they will adopt every lawful method, public or private, for cutting short the term of rapine and devastation in its course; and never lay down their constitutional arms, until the enemy be completely destroyed.



A P P E N D I X.

THE foregoing Tract was written and published immediately after the House of Commons had resolved, on the second of April 1792, that the Slave Trade ought to be *gradually* abolished; and before the House had proceeded to deliberate concerning the precise period during which the traffic was to be *licensed*.

The importance of the general subject, as referring to every principle which ought to influence the hearts and the consciences of men, and the distinct consideration which it has received in the Treatise concerning the Principles of Moral Philosophy^a, seem to evince that it is not improper to join the "Remarks"

^a Part II. Chapter VIII.

and that Treatise in one volume. The same reasons appear further to require a brief statement of the subsequent proceedings of the British Parliament respecting the Abolition of the Slave Trade.

Shortly after the Easter Recess, the House of Commons resumed its deliberations concerning the Abolition; and the contest between the friends of immediate and of gradual abolition instantly recommenced. The object of the former was to reduce the time to be granted for the continuance of the Slave Trade (for unhappily they had proved unable to prevent some time from being allowed) within the narrowest limits possible. The latter differed much among themselves in opinion respecting the length of the term to be fixed. On the twenty-fifth of April 1792 Mr. Dundas moved a resolution, limiting the continuance of the Slave Trade to the first day of January 1800. An amendment was moved by Lord Mornington, that the year "1793" should be substituted in the place of the year "1800." After a long debate this amendment was rejected by a majority of one hundred

dred and fifty-eight to one hundred and nine. The House then adjourned.

On the twenty-eighth of the same month Mr. Dundas again proposed his former resolution; and Lord Mornington moved to substitute the year "1795" in the place of the year "1800." This amendment also was rejected after much discussion, though by a smaller majority than the former; the numbers, on a division, being, for the amendment, one hundred and twenty-one; against it, one hundred and sixty-one.

Sir Edward Knatchbull then moved that the year "1796" should be substituted in the place of the year "1800." This amendment proved successful; the numbers, on a division, being, for it, one hundred and fifty-one, against it, one hundred and thirty-two.

Shortly afterwards the House of Commons communicated to the House of Peers the resolution, which it had passed respecting the abolition of the Slave Trade on the first of January 1796; and desired the concurrence of the Upper House in that resolution.

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The House of Lords being of opinion, that it would not be proper to rest their final determination on the evidence which had been given before the Privy Council, and before a Committee of the House of Commons; several of the Lords proposed, for the purpose of expediting the business, that the witnesses to be examined by the House should not be examined at the Bar, but before an open Committee up stairs. The motion was unsuccessful; and in a subsequent year it was renewed with no better fate,

From that time to the present, during a space of full three years, the matter has rested with the House of Lords. In no year have many days, or parts, to speak more properly, of many days, been employed in hearing evidence. In the present session I believe that evidence has never been heard at all.

This tardiness in point of progress seems to have been equally repugnant to the wishes and to the expectations of the friends of the immediate abolition of the Slave Trade, and even of the generality of those who preferred a gradual abolition; and has excited on various

rious occasions no small degree of public animadversion. That it has knowingly arisen from improper motives I do not mean to affirm. May every person who has contributed to it be able to justify his motives at that day, when the secrets of all hearts shall be revealed !

When the question of the Abolition of the Slave Trade was under discussion in the House of Commons, those members who contended for its continuance, whether for a longer or for a shorter period, rested their principal arguments on the wants of our Colonies ; and almost universally reprobated that part (and it was no inconsiderable part) of the trade in slaves carried on by Great Britain, which had for its object the supply of foreign colonies, as highly detrimental in point of policy to the interests of this country. In consequence therefore of the slowness of the proceedings of the House of Lords on the general subject, a bill for the immediate abolition of that branch of the Slave Trade, which consisted in supplying foreign nations, was sent up last year from the Commons to the Lords. But in the House of Lords it was unsuccessful.

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Such has been the progress, and such is the present state, of a question, which to a reflecting mind, that contemplates the multitude of unhappy beings whose dearest interests are involved in the decision, will perhaps appear the most important that was ever submitted to a human tribunal. In the mean time, though Justice pauses, Havock pauses not. *Deliberat Roma, perit Saguntum.* During the last three years rapine and treachery have been redoubling their exertions, as might naturally be expected, on the Coast of Africa; and the importation of slaves into our islands has been most enormous. The course of future events is inscrutable: but as far as we can foresee, there seem appearances sufficient to justify the belief, that the divine indignation will not much longer endure the existence of the Slave Trade; and that what Great Britain does not by means of law, Providence will do by instruments of vengeance. Whatever be the issue of the present contest with France, it is impossible to conceive that the principles which have been instilled by the French into the breasts of the negroes will ever be eradicated from *such* minds; or that there can be any prospect of their refraining from perpetual efforts

efforts to shake off their bondage by every species of massacre and desolation, (and from the immense ^b superiority of their numbers,

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^b In Mr. Edwards's History of the West Indies, (4to. 1793) the number of negroes in the British West Indian Colonies is stated to be four hundred and fifty thousand, Vol. II. P. 34. The number therefore at present cannot be much, if at all, less than half a million. Indeed it very probably is greater.

The historian to whom I have referred furnishes an additional example of the inconsistencies into which those persons necessarily fall, who plead for the continuance of the Slave Trade, and at the same time attend, in a certain degree, to the principles of justice. Thus, Vol. II. P. 34, he speaks of "the sad prospect of four hundred and fifty thousand reasonable beings (in the English islands only) in a state of barbarity and slavery; of whom—I will not say the major part, but—great numbers assuredly have been torn from their native country and dearest connections by means which no good mind can reflect upon but with sentiments of disgust, commiseration, and sorrow." In a subsequent part of his work also, after enumerating certain means by which he admits that the Slave Trade is supplied (in which enumeration however he lays little, if any, stress on some most flagitious means of supplying it, which are perfectly notorious and fully authenticated), he says: "By these means, and the commutation of death into slavery, for crimes real and pretended, are the nations of Europe supplied; and it cannot surely be a question among a humane and enlightened people concerning the unlawfulness

no force of the Whites can long resist their attempts) unless they shall be treated in a way in which they never will nor can be treated while the Slave Trade subsists; and unless the accession of newly imported Africans, the great source of past insurrections, be totally precluded. May the repentance of Great Britain be speedy and effectual! May those who are personally interested in the fate of the West Indian islands cease blindly to oppose the only measure, which affords a probable chance of preserving their property, their connections, and their relatives, from destruction! And may every man who feels himself staggered by the assertion, that the present season of public embarrassment is an unfit time for the adoption of so great a measure, ask himself these two questions: Whether any time can

“fulness of a traffic thus supported.” Vol. II. P. 105, 106. Yet he proceeds almost immediately to object to the abolition of the Slave Trade on the part of Great Britain; contending for the deliberate continuance of a traffic thus radically and confessedly unjust; and grounding his arguments on assertions and reasonings, which, I presume, will not appear to have any real foundation in point of fact to many persons, who have studied with an impartial mind the documents respecting the Slave Trade, which have been laid before the public.

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be a proper time to continue a practice radically barbarous, unjust, and unchristian? and whether, if there be any time really more proper than another for the performance of an act of indispensable duty, it be not the time when by reverses of fortune or impending dangers God admonishes us to consider and to repent.

YOXALL LODGE,
May 30, 1795.

F I N I S.



